

Calendar No. 398

112TH CONGRESS
2D SESSION**H. R. 5652**

IN THE SENATE OF THE UNITED STATES

MAY 14, 2012

Received and read the first time

MAY 15, 2012

Read the second time and placed on the calendar

AN ACT

To provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2013.

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. SHORT TITLE.**

4 This Act may be cited as the “Sequester Replacement
5 Reconciliation Act of 2012”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—AGRICULTURE

Sec. 101. Short title.

- Sec. 102. ARRA sunset at June 30, 2012.
- Sec. 103. Categorical eligibility limited to cash assistance.
- Sec. 104. Standard utility allowances based on the receipt of energy assistance payments.
- Sec. 105. Employment and training; workfare.
- Sec. 106. End State bonus program for the supplemental nutrition assistance program.
- Sec. 107. Funding of employment and training programs.
- Sec. 108. Turn off indexing for nutrition education and obesity prevention.
- Sec. 109. Extension of Authorization of Food and Nutrition Act of 2008.
- Sec. 110. Effective dates and application of amendments.

TITLE II—COMMITTEE ON ENERGY AND COMMERCE

Subtitle A—Repeal of Certain ACA Funding Provisions

- Sec. 201. Repealing mandatory funding to states to establish American Health Benefit Exchanges.
- Sec. 202. Repealing Prevention and Public Health Fund.
- Sec. 203. Rescinding unobligated balances for CO-OP program.

Subtitle B—Medicaid

- Sec. 211. Revision of provider tax indirect guarantee threshold.
- Sec. 212. Rebasing of State DSH allotments for fiscal year 2022.
- Sec. 213. Repeal of Medicaid and CHIP maintenance of effort requirements under PPACA.
- Sec. 214. Medicaid payments to territories.
- Sec. 215. Repealing bonus payments for enrollment under Medicaid and CHIP.

TITLE III—FINANCIAL SERVICES

- Sec. 301. Table of contents.

Subtitle A—Orderly Liquidation Fund

- Sec. 311. Repeal of liquidation authority.

Subtitle B—Home Affordable Modification Program

- Sec. 321. Short title.
- Sec. 322. Congressional findings.
- Sec. 323. Termination of authority.
- Sec. 324. Sense of Congress.

Subtitle C—Bureau of Consumer Financial Protection

- Sec. 331. Bringing the Bureau of Consumer Financial Protection into the regular appropriations process.

Subtitle D—Flood Insurance Reform

- Sec. 341. Short title.
- Sec. 342. Extensions.
- Sec. 343. Mandatory purchase.
- Sec. 344. Reforms of coverage terms.
- Sec. 345. Reforms of premium rates.
- Sec. 346. Technical Mapping Advisory Council.
- Sec. 347. FEMA incorporation of new mapping protocols.

- Sec. 348. Treatment of levees.
- Sec. 349. Privatization initiatives.
- Sec. 350. FEMA annual report on insurance program.
- Sec. 351. Mitigation assistance.
- Sec. 352. Notification to homeowners regarding mandatory purchase requirement applicability and rate phase-ins.
- Sec. 353. Notification to members of congress of flood map revisions and updates.
- Sec. 354. Notification and appeal of map changes; notification to communities of establishment of flood elevations.
- Sec. 355. Notification to tenants of availability of contents insurance.
- Sec. 356. Notification to policy holders regarding direct management of policy by FEMA.
- Sec. 357. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
- Sec. 358. Reimbursement for costs incurred by homeowners and communities obtaining letters of map amendment or revision.
- Sec. 359. Enhanced communication with certain communities during map updating process.
- Sec. 360. Notification to residents newly included in flood hazard areas.
- Sec. 361. Treatment of swimming pool enclosures outside of hurricane season.
- Sec. 362. Information regarding multiple perils claims.
- Sec. 363. FEMA authority to reject transfer of policies.
- Sec. 364. Appeals.
- Sec. 365. Reserve fund.
- Sec. 366. CDBG eligibility for flood insurance outreach activities and community building code administration grants.
- Sec. 367. Technical corrections.
- Sec. 368. Requiring competition for national flood insurance program policies.
- Sec. 369. Studies of voluntary community-based flood insurance options.
- Sec. 370. Report on inclusion of building codes in floodplain management criteria.
- Sec. 371. Study on graduated risk.
- Sec. 372. Report on flood-in-progress determination.
- Sec. 373. Study on repaying flood insurance debt.
- Sec. 374. No cause of action.
- Sec. 375. Authority for the corps of engineers to provide specialized or technical services.

Subtitle E—Repeal of the Office of Financial Research

- Sec. 381. Repeal of the Office of Financial Research.

TITLE IV—COMMITTEE ON THE JUDICIARY

- Sec. 401. Short title.
- Sec. 402. Encouraging speedy resolution of claims.
- Sec. 403. Compensating patient injury.
- Sec. 404. Maximizing patient recovery.
- Sec. 405. Punitive damages.
- Sec. 406. Authorization of payment of future damages to claimants in health care lawsuits.
- Sec. 407. Definitions.
- Sec. 408. Effect on other laws.
- Sec. 409. State flexibility and protection of States' rights.
- Sec. 410. Applicability; effective date.

TITLE V—COMMITTEE ON OVERSIGHT AND GOVERNMENT
REFORM

- Sec. 501. Retirement contributions.
 Sec. 502. Annuity supplement.
 Sec. 503. Contributions to Thrift Savings Fund of payments for accrued or accumulated leave.

TITLE VI—COMMITTEE ON WAYS AND MEANS

Subtitle A—Recapture of Overpayments Resulting From Certain Federally-subsidized Health Insurance

- Sec. 601. Recapture of overpayments resulting from certain federally-subsidized health insurance.

Subtitle B—Social Security Number Required to Claim the Refundable Portion of the Child Tax Credit

- Sec. 611. Social security number required to claim the refundable portion of the child tax credit.

Subtitle C—Human Resources Provisions

- Sec. 621. Repeal of the program of block grants to States for social services.

TITLE VII—SEQUESTER REPLACEMENT

- Sec. 701. Short title.
 Sec. 702. Protecting veterans programs from sequester.
 Sec. 703. Achieving \$19 billion in discretionary savings.
 Sec. 704. Conforming amendments to section 314 of the Congressional Budget and Impoundment Control Act of 1974.
 Sec. 705. Treatment for PAYGO purposes.
 Sec. 706. Elimination of the fiscal year 2013 sequestration for defense direct spending.

1 **TITLE I—AGRICULTURE**

2 **SEC. 101. SHORT TITLE.**

3 This title may be cited as the “Agricultural Reconcili-
 4 ation Act of 2012”.

5 **SEC. 102. ARRA SUNSET AT JUNE 30, 2012.**

6 Section 101(a)(2) of division A of the American Re-
 7 covery and Reinvestment Act of 2009 (Public Law 111–
 8 5; 123 Stat. 120) is amended by striking “October 31,
 9 2013” and inserting “June 30, 2012”.

1 **SEC. 103. CATEGORICAL ELIGIBILITY LIMITED TO CASH AS-**
2 **SISTANCE.**

3 Section 5 of the Food and Nutrition Act of 2008 (7
4 U.S.C. 2014) is amended—

5 (1) in the 2d sentence of subsection (a) by
6 striking “households in which each member receives
7 benefits” and inserting “households in which each
8 member receives cash assistance”, and

9 (2) in subsection (j) by striking “or who re-
10 ceives benefits under a State program” and inserting
11 “or who receives cash assistance under a State pro-
12 gram”.

13 **SEC. 104. STANDARD UTILITY ALLOWANCES BASED ON THE**
14 **RECEIPT OF ENERGY ASSISTANCE PAY-**
15 **MENTS.**

16 (a) STANDARD UTILITY ALLOWANCE.—Section 5 of
17 the Food and Nutrition Act of 2008 (7 U.S.C. 2014) is
18 amended—

19 (1) in subsection (e)(6)(C) by striking clause
20 (iv), and

21 (2) in subsection (k) by striking paragraph (4)
22 and inserting the following:

23 “(4) THIRD PARTY ENERGY ASSISTANCE PAY-
24 MENTS.—For purposes of subsection (d)(1), a pay-
25 ment made under a State law (other than a law re-
26 ferred to in paragraph (2)(G)) to provide energy as-

1 sistance to a household shall be considered money
2 payable directly to the household.”.

3 (b) CONFORMING AMENDMENTS.—Section
4 2605(f)(2) of the Low-Income Home Energy Assistance
5 Act of 1981 (42 U.S.C. 8624(f)(2)) is amended—

6 (1) by striking “and for purposes of deter-
7 mining any excess shelter expense deduction under
8 section 5(e) of the Food and Nutrition Act of 2008
9 (7 U.S.C. 2014(e))”, and

10 (2) in subparagraph (A) by inserting before the
11 semicolon the following: “, except that such pay-
12 ments or allowances shall not be deemed to be ex-
13 pended for purposes of determining any excess shel-
14 ter expense deduction under section 5(e)(6) of the
15 Food and Nutrition Act of 2008 (7 U.S.C.
16 2014(e)(6))”.

17 **SEC. 105. EMPLOYMENT AND TRAINING; WORKFARE.**

18 (a) ADMINISTRATIVE COST-SHARING FOR EMPLOY-
19 MENT AND TRAINING PROGRAMS.—

20 (1) IN GENERAL.—Section 16 of the Food and
21 Nutrition Act of 2008 (7 U.S.C. 2025) is amend-
22 ed—

23 (A) in subsection (a) by inserting “(other
24 than a program carried out under section
25 6(d)(4) or section 20)” after “supplemental nu-

1 trition assistance program” the 1st place it ap-
2 pears, and

3 (B) in subsection (h)—

4 (i) by striking paragraphs (2) and (3),

5 and

6 (ii) by redesignating paragraphs (4)

7 and (5) as paragraphs (2) and (3), respec-

8 tively.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Section 17(b)(1)(B)(iv)(III)(hh) of the

11 Food and Nutrition Act of 2008 (7 U.S.C.

12 2026(b)(1)(B)(iv)(III)(hh)) is amended by

13 striking “(g), (h)(2), or (h)(3)” and inserting

14 “or (g)”.

15 (B) Section 22(d)(1)(B)(ii) of the Food

16 and Nutrition Act of 2008 (7 U.S.C.

17 2031(d)(1)(B)(ii)) is amended is amended by

18 striking “, (g), (h)(2), and (h)(3)” and insert-

19 ing “and (g)”.

20 (b) ADMINISTRATIVE COST-SHARING AND REIM-

21 BURSEMENTS FOR WORKFARE.—Section 20 of the Food

22 and Nutrition Act of 2008 (7 U.S.C. 2029) is amended

23 by striking subsection (g).

1 **SEC. 106. END STATE BONUS PROGRAM FOR THE SUPPLE-**
2 **MENTAL NUTRITION ASSISTANCE PROGRAM.**

3 Section 16 of the Food and Nutrition Act of 2008
4 (7 U.S.C. 2025) is amended by striking subsection (d).

5 **SEC. 107. FUNDING OF EMPLOYMENT AND TRAINING PRO-**
6 **GRAMS.**

7 For purposes of fiscal year 2013, the reference to
8 \$90,000,000 in section 16(h)(1)(A) of the Food and Nu-
9 trition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) shall be
10 deemed to be a reference to \$79,000,000.

11 **SEC. 108. TURN OFF INDEXING FOR NUTRITION EDU-**
12 **CATION AND OBESITY PREVENTION.**

13 Section 28(d) of the Food and Nutrition Act of 2008
14 (7 U.S.C. 2037(d)) is amended by striking “years—” and
15 all that follows through the period at the end, and insert-
16 ing “years, \$375,000,000.”.

17 **SEC. 109. EXTENSION OF AUTHORIZATION OF FOOD AND**
18 **NUTRITION ACT OF 2008.**

19 Section 18(a)(1) of the Food and Nutrition Act of
20 2008 (7 U.S.C. 2027(a)(1)) is amended by striking
21 “2012” and inserting “2013”.

22 **SEC. 110. EFFECTIVE DATES AND APPLICATION OF AMEND-**
23 **MENTS.**

24 (a) GENERAL EFFECTIVE DATE.—Except as pro-
25 vided in subsection (b), this title and the amendments
26 made by this title shall take effect on October 1, 2012,

1 and shall apply only with respect to certification periods
2 that begin on or after such date.

3 (b) SPECIAL EFFECTIVE DATE.—Section 107 and
4 the amendments made by sections 102, 103, 104, and 109
5 shall take effect on the date of the enactment of this Act
6 and shall apply only with respect to certification periods
7 that begin on or after such date.

8 **TITLE II—COMMITTEE ON**
9 **ENERGY AND COMMERCE**
10 **Subtitle A—Repeal of Certain ACA**
11 **Funding Provisions**

12 **SEC. 201. REPEALING MANDATORY FUNDING TO STATES TO**
13 **ESTABLISH AMERICAN HEALTH BENEFIT EX-**
14 **CHANGES.**

15 (a) IN GENERAL.—Section 1311(a) of the Patient
16 Protection and Affordable Care Act (42 U.S.C. 18031(a))
17 is repealed.

18 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the
19 funds made available under such section 1311(a), the un-
20 obligated balance is rescinded.

21 **SEC. 202. REPEALING PREVENTION AND PUBLIC HEALTH**
22 **FUND.**

23 (a) IN GENERAL.—Section 4002 of the Patient Pro-
24 tection and Affordable Care Act (42 U.S.C. 300u–11) is
25 repealed.

1 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the
2 funds made available by such section 4002, the unobli-
3 gated balance is rescinded.

4 **SEC. 203. RESCINDING UNOBLIGATED BALANCES FOR CO-**
5 **OP PROGRAM.**

6 Of the funds made available under section 1322(g)
7 of the Patient Protection and Affordable Care Act (42
8 U.S.C. 18042(g)), the unobligated balance is rescinded.

9 **Subtitle B—Medicaid**

10 **SEC. 211. REVISION OF PROVIDER TAX INDIRECT GUAR-**
11 **ANTEE THRESHOLD.**

12 Section 1903(w)(4)(C)(ii) of the Social Security Act
13 (42 U.S.C. 1396b(w)(4)(C)(ii)) is amended by inserting
14 “and for portions of fiscal years beginning on or after Oc-
15 tober 1, 2012,” after “October 1, 2011,”.

16 **SEC. 212. REBASING OF STATE DSH ALLOTMENTS FOR FIS-**
17 **CAL YEAR 2022.**

18 Section 1923(f) of the Social Security Act (42 U.S.C.
19 1396r–4(f)) is amended—

20 (1) by redesignating paragraph (9) as para-
21 graph (10);

22 (2) in paragraph (3)(A) by striking “para-
23 graphs (6), (7), and (8)” and inserting “paragraphs
24 (6), (7), (8), and (9)”; and

1 (3) by inserting after paragraph (8) the fol-
2 lowing new paragraph:

3 “(9) REBASING OF STATE DSH ALLOTMENTS
4 FOR FISCAL YEAR 2022.—With respect to fiscal
5 2022, for purposes of applying paragraph (3)(A) to
6 determine the DSH allotment for a State, the
7 amount of the DSH allotment for the State under
8 paragraph (3) for fiscal year 2021 shall be treated
9 as if it were such amount as reduced under para-
10 graph (7).”.

11 **SEC. 213. REPEAL OF MEDICAID AND CHIP MAINTENANCE**
12 **OF EFFORT REQUIREMENTS UNDER PPACA.**

13 (a) REPEAL OF PPACA MEDICAID MOE.—Section
14 1902 of the Social Security Act (42 U.S.C. 1396a) is
15 amended by striking subsection (gg).

16 (b) REPEAL OF PPACA CHIP MOE.—Section
17 2105(d)(3) of the Social Security Act (42 U.S.C.
18 1397ee(d)(3)) is amended—

19 (1) by striking subparagraph (A);

20 (2) by redesignating subparagraphs (B) and
21 (C) as subparagraphs (A) and (B), respectively; and

22 (3) in the paragraph heading, by striking
23 “CONTINUATION OF ELIGIBILITY STANDARDS FOR
24 CHILDREN UNTIL OCTOBER 1, 2019” and inserting
25 “CONTINUITY OF COVERAGE”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 1902(a) of the Social Security Act
3 (42 U.S.C. 1396a(a)) is amended by striking para-
4 graph (74).

5 (2) Effective January 1, 2014, paragraph (14)
6 of section 1902(e) (as added by section 2002(a) of
7 Public Law 111–148) is amended by striking the
8 third sentence of subparagraph (A).

9 (d) EFFECTIVE DATE.—Except as provided in sub-
10 section (c)(2), the amendments made by this section shall
11 take effect on the date of the enactment of this section.

12 **SEC. 214. MEDICAID PAYMENTS TO TERRITORIES.**

13 (a) LIMIT ON PAYMENTS.—Section 1108(g) of the
14 Social Security Act (42 U.S.C. 1308(g)) is amended—

15 (1) in paragraph (2)—

16 (A) by striking “paragraphs (3) and (5)”;

17 and

18 (B) by inserting “paragraph (3)” after

19 “and subject to”;

20 (2) in paragraph (4), by striking “(3), and”

21 and all that follows through “of this subsection” and

22 inserting “and (3) of this subsection”; and

23 (3) by striking paragraph (5).

24 (b) FMAP.—The first sentence of section 1905(b) of
25 the Social Security Act (42 U.S.C. 1396d(b)) is amended

1 by striking “shall be 55 percent” and inserting “shall be
2 50 percent”.

3 **SEC. 215. REPEALING BONUS PAYMENTS FOR ENROLL-**
4 **MENT UNDER MEDICAID AND CHIP.**

5 (a) IN GENERAL.—Paragraphs (3) and (4) of section
6 2105(a) of the Social Security Act (42 U.S.C. 1397ee(a))
7 are repealed.

8 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the
9 funds made available by section 2105(a)(3) of the Social
10 Security Act, the unobligated balance is rescinded.

11 (c) CONFORMING CHANGES.—

12 (1) AVAILABILITY OF EXCESS FUNDS FOR PER-
13 FORMANCE BONUSES.—Section 2104(n)(2) of the
14 Social Security Act (42 U.S.C. 1397dd(n)(2)) is
15 amended by striking subparagraph (D).

16 (2) OUTREACH OR COVERAGE BENCHMARKS.—
17 Section 2111(b)(3) of the Social Security Act (42
18 U.S.C. 1397kk(b)(3)) is amended—

19 (A) in subparagraph (A)—

20 (i) in clause (i), by inserting “or”
21 after the semicolon at the end; and

22 (ii) by striking clause (ii); and

23 (B) by striking subparagraph (C).

1 **TITLE III—FINANCIAL SERVICES**

2 **SEC. 301. TABLE OF CONTENTS.**

3 The table of contents for this title is as follows:

TITLE III—FINANCIAL SERVICES

Sec. 301. Table of contents.

Subtitle A—Orderly Liquidation Fund

Sec. 311. Repeal of liquidation authority.

Subtitle B—Home Affordable Modification Program

Sec. 321. Short title.

Sec. 322. Congressional findings.

Sec. 323. Termination of authority.

Sec. 324. Sense of Congress.

Subtitle C—Bureau of Consumer Financial Protection

Sec. 331. Bringing the Bureau of Consumer Financial Protection into the regular appropriations process.

Subtitle D—Flood Insurance Reform

Sec. 341. Short title.

Sec. 342. Extensions.

Sec. 343. Mandatory purchase.

Sec. 344. Reforms of coverage terms.

Sec. 345. Reforms of premium rates.

Sec. 346. Technical Mapping Advisory Council.

Sec. 347. FEMA incorporation of new mapping protocols.

Sec. 348. Treatment of levees.

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Sec. 350. FEMA annual report on insurance program.

Sec. 351. Mitigation assistance.

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Sec. 355. Notification to tenants of availability of contents insurance.

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- Sec. 370. Report on inclusion of building codes in floodplain management criteria.
- Sec. 371. Study on graduated risk.
- Sec. 372. Report on flood-in-progress determination.
- Sec. 373. Study on repaying flood insurance debt.
- Sec. 374. No cause of action.
- Sec. 375. Authority for the corps of engineers to provide specialized or technical services.

Subtitle E—Repeal of the Office of Financial Research

- Sec. 381. Repeal of the Office of Financial Research.

1 **Subtitle A—Orderly Liquidation**
 2 **Fund**

3 **SEC. 311. REPEAL OF LIQUIDATION AUTHORITY.**

4 (a) IN GENERAL.—Title II of the Dodd-Frank Wall
 5 Street Reform and Consumer Protection Act is hereby re-
 6 pealed and any Federal law amended by such title shall,
 7 on and after the date of enactment of this Act, be effective
 8 as if title II of the Dodd-Frank Wall Street Reform and
 9 Consumer Protection Act had not been enacted.

10 (b) CONFORMING AMENDMENTS.—

11 (1) DODD-FRANK WALL STREET REFORM AND
 12 CONSUMER PROTECTION ACT.—The Dodd-Frank
 13 Wall Street Reform and Consumer Protection Act is
 14 amended—

15 (A) in the table of contents for such Act,
 16 by striking all items relating to title II;

1 (B) in section 165(d)(6), by striking “, a
2 receiver appointed under title II,”;

3 (C) in section 716(g), by striking “or a
4 covered financial company under title II”;

5 (D) in section 1105(e)(5), by striking
6 “amount of any securities issued under that
7 chapter 31 for such purpose shall be treated in
8 the same manner as securities issued under sec-
9 tion 208(n)(5)(E)” and inserting “issuances of
10 such securities under that chapter 31 for such
11 purpose shall by treated as public debt trans-
12 actions of the United States, and the proceeds
13 from the sale of any obligations acquired by the
14 Secretary under this paragraph shall be depos-
15 ited into the Treasury of the United States as
16 miscellaneous receipts”; and

17 (E) in section 1106(c)(2), by amending
18 subparagraph (A) to read as follows:

19 “(A) require the company to file a petition
20 for bankruptcy under section 301 of title 11,
21 United States Code; or”.

22 (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
23 tion 10(b)(3) of the Federal Deposit Insurance Act
24 (12 U.S.C. 1820(b)(3)) is amended by striking “, or
25 of such nonbank financial company supervised by

1 the Board of Governors or bank holding company
2 described in section 165(a) of the Financial Stability
3 Act of 2010, for the purpose of implementing its au-
4 thority to provide for orderly liquidation of any such
5 company under title II of that Act”.

6 (3) FEDERAL RESERVE ACT.—Section 13(3) of
7 the Federal Reserve Act is amended—

8 (A) in subparagraph (B)—

9 (i) in clause (ii), by striking “, resolu-
10 tion under title II of the Dodd-Frank Wall
11 Street Reform and Consumer Protection
12 Act, or” and inserting “or is subject to
13 resolution under”; and

14 (ii) in clause (iii), by striking “, reso-
15 lution under title II of the Dodd-Frank
16 Wall Street Reform and Consumer Protec-
17 tion Act, or” and inserting “or resolution
18 under”; and

19 (B) by striking subparagraph (E).

20 **Subtitle B—Home Affordable**
21 **Modification Program**

22 **SEC. 321. SHORT TITLE.**

23 This subtitle may be cited as the “HAMP Termi-
24 nation Act of 2012”.

1 **SEC. 322. CONGRESSIONAL FINDINGS.**

2 The Congress finds the following:

3 (1) According to the Department of the Treas-
4 ury—

5 (A) the Home Affordable Modification Pro-
6 gram (HAMP) is designed to “help as many as
7 3 to 4 million financially struggling homeowners
8 avoid foreclosure by modifying loans to a level
9 that is affordable for borrowers now and sus-
10 tainable over the long term”; and

11 (B) as of February 2012, only 782,609 ac-
12 tive permanent mortgage modifications were
13 made under HAMP.

14 (2) Many homeowners whose HAMP modifica-
15 tions were canceled suffered because they made fu-
16 tile payments and some of those homeowners were
17 even forced into foreclosure.

18 (3) The Special Inspector General for TARP
19 reported that HAMP “benefits only a small portion
20 of distressed homeowners, offers others little more
21 than false hope, and in certain cases causes more
22 harm than good”.

23 (4) Approximately \$30 billion was obligated by
24 the Department of the Treasury to HAMP, however,
25 approximately only \$2.54 billion has been disbursed.

1 (5) Terminating HAMP would save American
2 taxpayers approximately \$2.84 billion, according to
3 the Congressional Budget Office.

4 **SEC. 323. TERMINATION OF AUTHORITY.**

5 Section 120 of the Emergency Economic Stabilization
6 Act of 2008 (12 U.S.C. 5230) is amended by adding at
7 the end the following new subsection:

8 “(c) TERMINATION OF AUTHORITY TO PROVIDE
9 NEW ASSISTANCE UNDER THE HOME AFFORDABLE
10 MODIFICATION PROGRAM.—

11 “(1) IN GENERAL.—Except as provided under
12 paragraph (2), after the date of the enactment of
13 this subsection the Secretary may not provide any
14 assistance under the Home Affordable Modification
15 Program under the Making Home Affordable initia-
16 tive of the Secretary, authorized under this Act, on
17 behalf of any homeowner.

18 “(2) PROTECTION OF EXISTING OBLIGATIONS
19 ON BEHALF OF HOMEOWNERS ALREADY EXTENDED
20 AN OFFER TO PARTICIPATE IN THE PROGRAM.—
21 Paragraph (1) shall not apply with respect to assist-
22 ance provided on behalf of a homeowner who, before
23 the date of the enactment of this subsection, was ex-
24 tended an offer to participate in the Home Afford-

1 able Modification Program on a trial or permanent
2 basis.

3 “(3) DEFICIT REDUCTION.—

4 “(A) USE OF UNOBLIGATED FUNDS.—Not-
5 withstanding any other provision of this title,
6 the amounts described in subparagraph (B)
7 shall not be available after the date of the en-
8 actment of this subsection for obligation or ex-
9 penditure under the Home Affordable Modifica-
10 tion Program of the Secretary, but should be
11 covered into the General Fund of the Treasury
12 and should be used only for reducing the budg-
13 et deficit of the Federal Government.

14 “(B) IDENTIFICATION OF UNOBLIGATED
15 FUNDS.—The amounts described in this sub-
16 paragraph are any amounts made available
17 under title I of the Emergency Economic Sta-
18 bilization Act of 2008 that—

19 “(i) have been allocated for use, but
20 not yet obligated as of the date of the en-
21 actment of this subsection, under the
22 Home Affordable Modification Program of
23 the Secretary; and

24 “(ii) are not necessary for providing
25 assistance under such Program on behalf

1 of homeowners who, pursuant to para-
2 graph (2), may be provided assistance
3 after the date of the enactment of this sub-
4 section.

5 “(4) STUDY OF USE OF PROGRAM BY MEMBERS
6 OF THE ARMED FORCES, VETERANS, AND GOLD
7 STAR RECIPIENTS.—

8 “(A) STUDY.—The Secretary shall conduct
9 a study to determine the extent of usage of the
10 Home Affordable Modification Program by, and
11 the impact of such Program on, covered home-
12 owners.

13 “(B) REPORT.—Not later than the expira-
14 tion of the 90-day period beginning on the date
15 of the enactment of this subsection, the Sec-
16 retary shall submit to the Congress a report
17 setting forth the results of the study under sub-
18 paragraph (A) and identifying best practices,
19 derived from studying the Home Affordable
20 Modification Program, that could be applied to
21 existing mortgage assistance programs available
22 to covered homeowners.

23 “(C) COVERED HOMEOWNER.—For pur-
24 poses of this subsection, the term ‘covered
25 homeowner’ means a homeowner who is—

1 “(i) a member of the Armed Forces of
2 the United States on active duty or the
3 spouse or parent of such a member;

4 “(ii) a veteran, as such term is de-
5 fined in section 101 of title 38, United
6 States Code; or

7 “(iii) eligible to receive a Gold Star
8 lapel pin under section 1126 of title 10,
9 United States Code, as a widow, parent, or
10 next of kin of a member of the Armed
11 Forces person who died in a manner de-
12 scribed in subsection (a) of such section.

13 “(5) PUBLICATION OF MEMBER AVAILABILITY
14 FOR ASSISTANCE.—Not later than 5 days after the
15 date of the enactment of this subsection, the Sec-
16 retary of the Treasury shall publish to its Website
17 on the World Wide Web in a prominent location,
18 large point font, and boldface type the following
19 statement: ‘The Home Affordable Modification Pro-
20 gram (HAMP) has been terminated. If you are hav-
21 ing trouble paying your mortgage and need help con-
22 tacting your lender or servicer for purposes of nego-
23 tiating or acquiring a loan modification, please con-
24 tact your Member of Congress to assist you in con-

1 tacting your lender or servicer for the purpose of ne-
2 gotiating or acquiring a loan modification.’.

3 “(6) NOTIFICATION TO HAMP APPLICANTS RE-
4 QUIRED.—Not later than 30 days after the date of
5 the enactment of this subsection, the Secretary of
6 the Treasury shall inform each individual who ap-
7 plied for the Home Affordable Modification Program
8 and will not be considered for a modification under
9 such Program due to termination of such Program
10 under this subsection—

11 “(A) that such Program has been termi-
12 nated;

13 “(B) that loan modifications under such
14 Program are no longer available;

15 “(C) of the name and contact information
16 of such individual’s Member of Congress; and

17 “(D) that the individual should contact his
18 or her Member of Congress to assist the indi-
19 vidual in contacting the individual’s lender or
20 servicer for the purpose of negotiating or ac-
21 quiring a loan modification.”.

22 **SEC. 324. SENSE OF CONGRESS.**

23 The Congress encourages banks to work with home-
24 owners to provide loan modifications to those that are eli-
25 gible. The Congress also encourages banks to work and

1 assist homeowners and prospective homeowners with fore-
2 closure prevention programs and information on loan
3 modifications.

4 **Subtitle C—Bureau of Consumer**
5 **Financial Protection**

6 **SEC. 331. BRINGING THE BUREAU OF CONSUMER FINAN-**
7 **CIAL PROTECTION INTO THE REGULAR AP-**
8 **PROPRIATIONS PROCESS.**

9 Section 1017 of the Consumer Financial Protection
10 Act of 2010 is amended—

11 (1) in subsection (a)—

12 (A) by amending the heading of such sub-
13 section to read as follows: “BUDGET, FINAN-
14 CIAL MANAGEMENT, AND AUDIT.—”;

15 (B) by striking paragraphs (1), (2), and
16 (3);

17 (C) by redesignating paragraphs (4) and
18 (5) as paragraphs (1) and (2), respectively; and

19 (D) by striking subparagraphs (E) and (F)
20 of paragraph (1), as so redesignated;

21 (2) by striking subsections (b), (c), and (d);

22 (3) by redesignating subsection (e) as sub-
23 section (b); and

24 (4) in subsection (b), as so redesignated—

1 (A) by striking paragraphs (1), (2), and
2 (3) and inserting the following:

3 “(1) AUTHORIZATION OF APPROPRIATIONS.—
4 There is authorized to be appropriated
5 \$200,000,000 to carry out this title for each of fiscal
6 years 2012 and 2013.”; and

7 (B) by redesignating paragraph (4) as
8 paragraph (2).

9 **Subtitle D—Flood Insurance**
10 **Reform**

11 **SEC. 341. SHORT TITLE.**

12 This subtitle may be cited as the “Flood Insurance
13 Reform Act of 2012”.

14 **SEC. 342. EXTENSIONS.**

15 (a) EXTENSION OF PROGRAM.—Section 1319 of the
16 National Flood Insurance Act of 1968 (42 U.S.C. 4026)
17 is amended by striking “the earlier of the date of the en-
18 actment into law of an Act that specifically amends the
19 date specified in this section or May 31, 2012” and insert-
20 ing “September 30, 2016”.

21 (b) EXTENSION OF FINANCING.—Section 1309(a) of
22 such Act (42 U.S.C. 4016(a)) is amended by striking “the
23 earlier of the date of the enactment into law of an Act
24 that specifically amends the date specified in this section
25 or May 31, 2012” and inserting “September 30, 2016”.

1 **SEC. 343. MANDATORY PURCHASE.**

2 (a) AUTHORITY TO TEMPORARILY SUSPEND MANDA-
3 TORY PURCHASE REQUIREMENT.—

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

8 “(i) AUTHORITY TO TEMPORARILY SUSPEND MAN-
9 DATORY PURCHASE REQUIREMENT.—

10 “(1) FINDING BY ADMINISTRATOR THAT AREA
11 IS AN ELIGIBLE AREA.—For any area, upon a re-
12 quest submitted to the Administrator by a local gov-
13 ernment authority having jurisdiction over any por-
14 tion of the area, the Administrator shall make a
15 finding of whether the area is an eligible area under
16 paragraph (3). If the Administrator finds that such
17 area is an eligible area, the Administrator shall, in
18 the discretion of the Administrator, designate a pe-
19 riod during which such finding shall be effective,
20 which shall not be longer in duration than 12
21 months.

22 “(2) SUSPENSION OF MANDATORY PURCHASE
23 REQUIREMENT.—If the Administrator makes a find-
24 ing under paragraph (1) that an area is an eligible
25 area under paragraph (3), during the period speci-
26 fied in the finding, the designation of such eligible

1 area as an area having special flood hazards shall
2 not be effective for purposes of subsections (a), (b),
3 and (e) of this section, and section 202(a) of this
4 Act. Nothing in this paragraph may be construed to
5 prevent any lender, servicer, regulated lending insti-
6 tution, Federal agency lender, the Federal National
7 Mortgage Association, or the Federal Home Loan
8 Mortgage Corporation, at the discretion of such enti-
9 ty, from requiring the purchase of flood insurance
10 coverage in connection with the making, increasing,
11 extending, or renewing of a loan secured by im-
12 proved real estate or a mobile home located or to be
13 located in such eligible area during such period or
14 a lender or servicer from purchasing coverage on be-
15 half of a borrower pursuant to subsection (e).

16 “(3) ELIGIBLE AREAS.—An eligible area under
17 this paragraph is an area that is designated or will,
18 pursuant to any issuance, revision, updating, or
19 other change in flood insurance maps that takes ef-
20 fect on or after the date of the enactment of the
21 Flood Insurance Reform Act of 2012, become des-
22 ignated as an area having special flood hazards and
23 that meets any one of the following 3 requirements:

24 “(A) AREAS WITH NO HISTORY OF SPE-
25 CIAL FLOOD HAZARDS.—The area does not in-

1 clude any area that has ever previously been
2 designated as an area having special flood haz-
3 ards.

4 “(B) AREAS WITH FLOOD PROTECTION
5 SYSTEMS UNDER IMPROVEMENTS.—The area
6 was intended to be protected by a flood protec-
7 tion system—

8 “(i) that has been decertified, or is re-
9 quired to be certified, as providing protec-
10 tion for the 100-year frequency flood
11 standard;

12 “(ii) that is being improved, con-
13 structed, or reconstructed; and

14 “(iii) for which the Administrator has
15 determined measurable progress toward
16 completion of such improvement, construc-
17 tion, reconstruction is being made and to-
18 ward securing financial commitments suffi-
19 cient to fund such completion.

20 “(C) AREAS FOR WHICH APPEAL HAS
21 BEEN FILED.—An area for which a community
22 has appealed designation of the area as having
23 special flood hazards in a timely manner under
24 section 1363.

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

7 “(A) each such extension under this para-
8 graph shall not be for a period exceeding 12
9 months; and

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

12 “(5) ADDITIONAL EXTENSION FOR COMMU-
13 NITIES MAKING MORE THAN ADEQUATE PROGRESS
14 ON FLOOD PROTECTION SYSTEM.—

15 “(A) EXTENSION.—

16 “(i) AUTHORITY.—Except as provided
17 in subparagraph (B), in the case of an eli-
18 gible area for which the Administrator has,
19 pursuant to paragraph (4), extended the
20 period of effectiveness of the finding under
21 paragraph (1) for the area, upon a request
22 submitted by a local government authority
23 having jurisdiction over any portion of the
24 eligible area, if the Administrator finds
25 that more than adequate progress has been

1 made on the construction of a flood protec-
2 tion system for such area, as determined in
3 accordance with the last sentence of sec-
4 tion 1307(e) of the National Flood Insur-
5 ance Act of 1968 (42 U.S.C. 4014(e)), the
6 Administrator may, in the discretion of the
7 Administrator, further extend the period
8 during which the finding under paragraph
9 (1) shall be effective for such area for an
10 additional 12 months.

11 “(ii) LIMIT.—For any eligible area,
12 the cumulative number of extensions under
13 this subparagraph may not exceed 2.

14 “(B) EXCLUSION FOR NEW MORTGAGES.—

15 “(i) EXCLUSION.—Any extension
16 under subparagraph (A) of this paragraph
17 of a finding under paragraph (1) shall not
18 be effective with respect to any excluded
19 property after the origination, increase, ex-
20 tension, or renewal of the loan referred to
21 in clause (ii)(II) for the property.

22 “(ii) EXCLUDED PROPERTIES.—For
23 purposes of this subparagraph, the term
24 ‘excluded property’ means any improved
25 real estate or mobile home—

1 “(I) that is located in an eligible
2 area; and

3 “(II) for which, during the period
4 that any extension under subpara-
5 graph (A) of this paragraph of a find-
6 ing under paragraph (1) is otherwise
7 in effect for the eligible area in which
8 such property is located—

9 “(aa) a loan that is secured
10 by the property is originated; or

11 “(bb) any existing loan that
12 is secured by the property is in-
13 creased, extended, or renewed.

14 “(6) RULE OF CONSTRUCTION.—Nothing in
15 this subsection may be construed to affect the appli-
16 cability of a designation of any area as an area hav-
17 ing special flood hazards for purposes of the avail-
18 ability of flood insurance coverage, criteria for land
19 management and use, notification of flood hazards,
20 eligibility for mitigation assistance, or any other pur-
21 pose or provision not specifically referred to in para-
22 graph (2).

23 “(7) REPORTS.—The Administrator shall, in
24 each annual report submitted pursuant to section
25 1320, include information identifying each finding

1 under paragraph (1) by the Administrator during
2 the preceding year that an area is an area having
3 special flood hazards, the basis for each such find-
4 ing, any extensions pursuant to paragraph (4) of the
5 periods of effectiveness of such findings, and the
6 reasons for such extensions.”.

7 (2) NO REFUNDS.—Nothing in this subsection
8 or the amendments made by this subsection may be
9 construed to authorize or require any payment or re-
10 fund for flood insurance coverage purchased for any
11 property that covered any period during which such
12 coverage is not required for the property pursuant to
13 the applicability of the amendment made by para-
14 graph (1).

15 (b) TERMINATION OF FORCE-PLACED INSURANCE.—
16 Section 102(e) of the Flood Disaster Protection Act of
17 1973 (42 U.S.C. 4012a(e)) is amended—

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

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

1 (3) by inserting after paragraph (2) the fol-
2 lowing new paragraphs:

3 “(3) TERMINATION OF FORCE-PLACED INSUR-
4 ANCE.—Within 30 days of receipt by the lender or
5 servicer of a confirmation of a borrower’s existing
6 flood insurance coverage, the lender or servicer
7 shall—

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

10 “(B) refund to the borrower all force-
11 placed insurance premiums paid by the bor-
12 rower during any period during which the bor-
13 rower’s flood insurance coverage and the force-
14 placed flood insurance coverage were each in ef-
15 fect, and any related fees charged to the bor-
16 rower with respect to the force-placed insurance
17 during such period.

18 “(4) SUFFICIENCY OF DEMONSTRATION.—For
19 purposes of confirming a borrower’s existing flood
20 insurance coverage, a lender or servicer for a loan
21 shall accept from the borrower an insurance policy
22 declarations page that includes the existing flood in-
23 surance policy number and the identity of, and con-
24 tact information for, the insurance company or
25 agent.”.

1 (c) USE OF PRIVATE INSURANCE TO SATISFY MAN-
2 DATORY PURCHASE REQUIREMENT.—Section 102(b) of
3 the Flood Disaster Protection Act of 1973 (42 U.S.C.
4 4012a(b)) is amended—

5 (1) in paragraph (1)—

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

8 “(A) not to make”;

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

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

14 “(B) to accept private flood insurance as
15 satisfaction of the flood insurance coverage re-
16 quirement under subparagraph (A) if the cov-
17 erage provided by such private flood insurance
18 meets the requirements for coverage under such
19 subparagraph.”;

20 (2) in paragraph (2), by inserting after “pro-
21 vided in paragraph (1).” the following new sentence:

22 “Each Federal agency lender shall accept private
23 flood insurance as satisfaction of the flood insurance
24 coverage requirement under the preceding sentence
25 if the flood insurance coverage provided by such pri-

1 vate flood insurance meets the requirements for cov-
2 erage under such sentence.”;

3 (3) in paragraph (3), in the matter following
4 subparagraph (B), by adding at the end the fol-
5 lowing new sentence: “The Federal National Mort-
6 gage Association and the Federal Home Loan Mort-
7 gage Corporation shall accept private flood insurance
8 as satisfaction of the flood insurance coverage re-
9 quirement under the preceding sentence if the flood
10 insurance coverage provided by such private flood in-
11 surance meets the requirements for coverage under
12 such sentence.”; and

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

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

19 **SEC. 344. REFORMS OF COVERAGE TERMS.**

20 (a) MINIMUM DEDUCTIBLES FOR CLAIMS.—Section
21 1312 of the National Flood Insurance Act of 1968 (42
22 U.S.C. 4019) is amended—

23 (1) by striking “The Director is” and inserting
24 the following: “(a) IN GENERAL.—The Adminis-
25 trator is”; and

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

2 “(b) MINIMUM ANNUAL DEDUCTIBLES.—

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

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

19 (b) CLARIFICATION OF RESIDENTIAL AND COMMER-
20 CIAL COVERAGE LIMITS.—Section 1306(b) of the Na-
21 tional Flood Insurance Act of 1968 (42 U.S.C. 4013(b))
22 is amended—

23 (1) in paragraph (2)—

24 (A) by striking “in the case of any residen-
25 tial property” and inserting “in the case of any

1 residential building designed for the occupancy
2 of from one to four families”; and

3 (B) by striking “shall be made available to
4 every insured upon renewal and every applicant
5 for insurance so as to enable such insured or
6 applicant to receive coverage up to a total
7 amount (including such limits specified in para-
8 graph (1)(A)(i)) of \$250,000” and inserting
9 “shall be made available, with respect to any
10 single such building, up to an aggregate liability
11 (including such limits specified in paragraph
12 (1)(A)(i)) of \$250,000”; and
13 (2) in paragraph (4)—

14 (A) by striking “in the case of any nonresi-
15 dential property, including churches,” and in-
16 serting “in the case of any nonresidential build-
17 ing, including a church,”; and

18 (B) by striking “shall be made available to
19 every insured upon renewal and every applicant
20 for insurance, in respect to any single structure,
21 up to a total amount (including such limit spec-
22 ified in subparagraph (B) or (C) of paragraph
23 (1), as applicable) of \$500,000 for each struc-
24 ture and \$500,000 for any contents related to
25 each structure” and inserting “shall be made

1 available with respect to any single such build-
2 ing, up to an aggregate liability (including such
3 limits specified in subparagraph (B) or (C) of
4 paragraph (1), as applicable) of \$500,000, and
5 coverage shall be made available up to a total
6 of \$500,000 aggregate liability for contents
7 owned by the building owner and \$500,000 ag-
8 gregate liability for each unit within the build-
9 ing for contents owned by the tenant”.

10 (c) INDEXING OF MAXIMUM COVERAGE LIMITS.—

11 Subsection (b) of section 1306 of the National Flood In-
12 surance Act of 1968 (42 U.S.C. 4013(b)) is amended—

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

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

17 (3) by redesignating paragraph (5) as para-
18 graph (7); and

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

21 “(8) each of the dollar amount limitations
22 under paragraphs (2), (3), (4), (5), and (6) shall be
23 adjusted effective on the date of the enactment of
24 the Flood Insurance Reform Act of 2012, such ad-
25 justments shall be calculated using the percentage

1 change, over the period beginning on September 30,
2 1994, and ending on such date of enactment, in
3 such inflationary index as the Administrator shall,
4 by regulation, specify, and the dollar amount of such
5 adjustment shall be rounded to the next lower dollar;
6 and the Administrator shall cause to be published in
7 the Federal Register the adjustments under this
8 paragraph to such dollar amount limitations; except
9 that in the case of coverage for a property that is
10 made available, pursuant to this paragraph, in an
11 amount that exceeds the limitation otherwise appli-
12 cable to such coverage as specified in paragraph (2),
13 (3), (4), (5), or (6), the total of such coverage shall
14 be made available only at chargeable rates that are
15 not less than the estimated premium rates for such
16 coverage determined in accordance with section
17 1307(a)(1).”.

18 (d) OPTIONAL COVERAGE FOR LOSS OF USE OF PER-
19 SONAL RESIDENCE AND BUSINESS INTERRUPTION.—Sub-
20 section (b) of section 1306 of the National Flood Insur-
21 ance Act of 1968 (42 U.S.C. 4013(b)), as amended by
22 the preceding provisions of this section, is further amend-
23 ed by inserting after paragraph (4) the following new
24 paragraphs:

1 “(5) the Administrator may provide that, in the
2 case of any residential property, each renewal or new
3 contract for flood insurance coverage may provide
4 not more than \$5,000 aggregate liability per dwell-
5 ing unit for any necessary increases in living ex-
6 penses incurred by the insured when losses from a
7 flood make the residence unfit to live in, except
8 that—

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

11 “(B) any such coverage shall be made
12 available only at chargeable rates that are not
13 less than the estimated premium rates for such
14 coverage determined in accordance with section
15 1307(a)(1); and

16 “(C) the Administrator may make such
17 coverage available only if the Administrator
18 makes a determination and causes notice of
19 such determination to be published in the Fed-
20 eral Register that—

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

24 “(ii) the national flood insurance pro-
25 gram has the capacity to make such cov-

1 erage available without borrowing funds
2 from the Secretary of the Treasury under
3 section 1309 or otherwise;

4 “(6) the Administrator may provide that, in the
5 case of any commercial property or other residential
6 property, including multifamily rental property, cov-
7 erage for losses resulting from any partial or total
8 interruption of the insured’s business caused by
9 damage to, or loss of, such property from a flood
10 may be made available to every insured upon re-
11 newal and every applicant, up to a total amount of
12 \$20,000 per property, except that—

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

15 “(B) any such coverage shall be made
16 available only at chargeable rates that are not
17 less than the estimated premium rates for such
18 coverage determined in accordance with section
19 1307(a)(1); and

20 “(C) the Administrator may make such
21 coverage available only if the Administrator
22 makes a determination and causes notice of
23 such determination to be published in the Fed-
24 eral Register that—

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

4 “(ii) the national flood insurance pro-
5 gram has the capacity to make such cov-
6 erage available without borrowing funds
7 from the Secretary of the Treasury under
8 section 1309 or otherwise;”.

9 (e) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR
10 RESIDENTIAL PROPERTIES.—Section 1306 of the Na-
11 tional Flood Insurance Act of 1968 (42 U.S.C. 4013) is
12 amended by adding at the end the following new sub-
13 section:

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

16 “(1) AUTHORITY.—In addition to any other
17 terms and conditions under subsection (a), such reg-
18 ulations shall provide that, in the case of any resi-
19 dential property, premiums for flood insurance cov-
20 erage made available under this title for such prop-
21 erty may be paid in installments.

22 “(2) LIMITATIONS.—In implementing the au-
23 thority under paragraph (1), the Administrator may
24 establish increased chargeable premium rates and
25 surcharges, and deny coverage and establish such

1 other sanctions, as the Administrator considers nec-
2 essary to ensure that insureds purchase, pay for,
3 and maintain coverage for the full term of a contract
4 for flood insurance coverage or to prevent insureds
5 from purchasing coverage only for periods during a
6 year when risk of flooding is comparatively higher or
7 canceling coverage for periods when such risk is
8 comparatively lower.”.

9 (f) **EFFECTIVE DATE OF POLICIES COVERING PROP-**
10 **ERTIES AFFECTED BY FLOODS IN PROGRESS.**—Para-
11 graph (1) of section 1306(c) of the National Flood Insur-
12 ance Act of 1968 (42 U.S.C. 4013(c)) is amended by add-
13 ing after the period at the end the following: “With respect
14 to any flood that has commenced or is in progress before
15 the expiration of such 30-day period, such flood insurance
16 coverage for a property shall take effect upon the expira-
17 tion of such 30-day period and shall cover damage to such
18 property occurring after the expiration of such period that
19 results from such flood, but only if the property has not
20 suffered damage or loss as a result of such flood before
21 the expiration of such 30-day period.”.

22 **SEC. 345. REFORMS OF PREMIUM RATES.**

23 (a) **INCREASE IN ANNUAL LIMITATION ON PREMIUM**
24 **INCREASES.**—Section 1308(e) of the National Flood In-

1 surance Act of 1968 (42 U.S.C. 4015(e)) is amended by
2 striking “10 percent” and inserting “20 percent”.

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

5 (1) IN GENERAL.—Section 1308 of the Na-
6 tional Flood Insurance Act of 1968 (42 U.S.C.
7 4015) is amended—

8 (A) in subsection (a), in the matter pre-
9 ceding paragraph (1), by inserting “or notice”
10 after “prescribe by regulation”;

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

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

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

18 “(1) 5-YEAR PHASE-IN PERIOD.—Notwith-
19 standing subsection (c) or any other provision of law
20 relating to chargeable risk premium rates for flood
21 insurance coverage under this title, in the case of
22 any area that was not previously designated as an
23 area having special flood hazards and that, pursuant
24 to any issuance, revision, updating, or other change
25 in flood insurance maps, becomes designated as such

1 an area, during the 5-year period that begins, except
2 as provided in paragraph (2), upon the date that
3 such maps, as issued, revised, updated, or otherwise
4 changed, become effective, the chargeable premium
5 rate for flood insurance under this title with respect
6 to any covered property that is located within such
7 area shall be the rate described in paragraph (3).

8 “(2) APPLICABILITY TO PREFERRED RISK RATE
9 AREAS.—In the case of any area described in para-
10 graph (1) that consists of or includes an area that,
11 as of date of the effectiveness of the flood insurance
12 maps for such area referred to in paragraph (1) as
13 so issued, revised, updated, or changed, is eligible
14 for any reason for preferred risk rate method pre-
15 miums for flood insurance coverage and was eligible
16 for such premiums as of the enactment of the Flood
17 Insurance Reform Act of 2012, the 5-year period re-
18 ferred to in paragraph (1) for such area eligible for
19 preferred risk rate method premiums shall begin
20 upon the expiration of the period during which such
21 area is eligible for such preferred risk rate method
22 premiums.

23 “(3) PHASE-IN OF FULL ACTUARIAL RATES.—
24 With respect to any area described in paragraph (1),
25 the chargeable risk premium rate for flood insurance

1 under this title for a covered property that is located
2 in such area shall be—

3 “(A) for the first year of the 5-year period
4 referred to in paragraph (1), the greater of—

5 “(i) 20 percent of the chargeable risk
6 premium rate otherwise applicable under
7 this title to the property; and

8 “(ii) in the case of any property that,
9 as of the beginning of such first year, is el-
10 ible for preferred risk rate method pre-
11 miums for flood insurance coverage, such
12 preferred risk rate method premium for
13 the property;

14 “(B) for the second year of such 5-year pe-
15 riod, 40 percent of the chargeable risk premium
16 rate otherwise applicable under this title to the
17 property;

18 “(C) for the third year of such 5-year pe-
19 riod, 60 percent of the chargeable risk premium
20 rate otherwise applicable under this title to the
21 property;

22 “(D) for the fourth year of such 5-year pe-
23 riod, 80 percent of the chargeable risk premium
24 rate otherwise applicable under this title to the
25 property; and

1 “(E) for the fifth year of such 5-year pe-
2 riod, 100 percent of the chargeable risk pre-
3 mium rate otherwise applicable under this title
4 to the property.

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

9 (2) REGULATION OR NOTICE.—The Adminis-
10 trator of the Federal Emergency Management Agen-
11 cy shall issue an interim final rule or notice to im-
12 plement this subsection and the amendments made
13 by this subsection as soon as practicable after the
14 date of the enactment of this Act.

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

17 (1) IN GENERAL.—Section 1308(c) of the Na-
18 tional Flood Insurance Act of 1968 (42 U.S.C.
19 4015(c)) is amended—

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

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

24 “(2) COMMERCIAL PROPERTIES.—Any nonresi-
25 dential property.

1 “(3) SECOND HOMES AND VACATION HOMES.—
2 Any residential property that is not the primary res-
3 idence of any individual.

4 “(4) HOMES SOLD TO NEW OWNERS.—Any sin-
5 gle family property that—

6 “(A) has been constructed or substantially
7 improved and for which such construction or
8 improvement was started, as determined by the
9 Administrator, before December 31, 1974, or
10 before the effective date of the initial rate map
11 published by the Administrator under para-
12 graph (2) of section 1360(a) for the area in
13 which such property is located, whichever is
14 later; and

15 “(B) is purchased after the effective date
16 of this paragraph, pursuant to section
17 345(c)(3)(A) of the Flood Insurance Reform
18 Act of 2012.

19 “(5) HOMES DAMAGED OR IMPROVED.—Any
20 property that, on or after the date of the enactment
21 of the Flood Insurance Reform Act of 2012, has ex-
22 perience or sustained—

23 “(A) substantial flood damage exceeding
24 50 percent of the fair market value of such
25 property; or

1 “(B) substantial improvement exceeding
2 30 percent of the fair market value of such
3 property.

4 “(6) HOMES WITH MULTIPLE CLAIMS.—Any se-
5 vere repetitive loss property (as such term is defined
6 in section 1366(j)).”.

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

10 (A) in subsection (c)—

11 (i) in the matter preceding paragraph
12 (1), by striking “the limitations provided
13 under paragraphs (1) and (2)” and insert-
14 ing “subsection (e)”; and

15 (ii) in paragraph (1), by striking “,
16 except” and all that follows through “sub-
17 section (e)”; and

18 (B) in subsection (e), by striking “para-
19 graph (2) or (3)” and inserting “paragraph
20 (7)”.

21 (3) EFFECTIVE DATE AND TRANSITION.—

22 (A) EFFECTIVE DATE.—The amendments
23 made by paragraphs (1) and (2) shall apply be-
24 ginning upon the expiration of the 12-month
25 period that begins on the date of the enactment

1 of this Act, except as provided in subparagraph
2 (B) of this paragraph.

3 (B) TRANSITION FOR PROPERTIES COV-
4 ERED BY FLOOD INSURANCE UPON EFFECTIVE
5 DATE.—

6 (i) INCREASE OF RATES OVER TIME.—

7 In the case of any property described in
8 paragraph (2), (3), (4), (5), or (6) of sec-
9 tion 1308(c) of the National Flood Insur-
10 ance Act of 1968, as amended by para-
11 graph (1) of this subsection, that, as of the
12 effective date under subparagraph (A) of
13 this paragraph, is covered under a policy
14 for flood insurance made available under
15 the national flood insurance program for
16 which the chargeable premium rates are
17 less than the applicable estimated risk pre-
18 mium rate under section 1307(a)(1) of
19 such Act for the area in which the prop-
20 erty is located, the Administrator of the
21 Federal Emergency Management Agency
22 shall increase the chargeable premium
23 rates for such property over time to such
24 applicable estimated risk premium rate
25 under section 1307(a)(1).

1 (ii) AMOUNT OF ANNUAL INCREASE.—

2 Such increase shall be made by increasing
3 the chargeable premium rates for the prop-
4 erty (after application of any increase in
5 the premium rates otherwise applicable to
6 such property), once during the 12-month
7 period that begins upon the effective date
8 under subparagraph (A) of this paragraph
9 and once every 12 months thereafter until
10 such increase is accomplished, by 20 per-
11 cent (or such lesser amount as may be nec-
12 essary so that the chargeable rate does not
13 exceed such applicable estimated risk pre-
14 mium rate or to comply with clause (iii)).

15 (iii) PROPERTIES SUBJECT TO PHASE-

16 IN AND ANNUAL INCREASES.—In the case
17 of any pre-FIRM property (as such term is
18 defined in section 578(b) of the National
19 Flood Insurance Reform Act of 1974), the
20 aggregate increase, during any 12-month
21 period, in the chargeable premium rate for
22 the property that is attributable to this
23 subparagraph or to an increase described
24 in section 1308(e) of the National Flood

1 Insurance Act of 1968 may not exceed 20
2 percent.

3 (iv) FULL ACTUARIAL RATES.—The
4 provisions of paragraphs (2), (3), (4), (5),
5 and (6) of such section 1308(c) shall apply
6 to such a property upon the accomplish-
7 ment of the increase under this subpara-
8 graph and thereafter.

9 (d) PROHIBITION OF EXTENSION OF SUBSIDIZED
10 RATES TO LAPSED POLICIES.—Section 1308 of the Na-
11 tional Flood Insurance Act of 1968 (42 U.S.C. 4015), as
12 amended by the preceding provisions of this subtitle, is
13 further amended—

14 (1) in subsection (e), by inserting “or sub-
15 section (h)” after “subsection (c)”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(h) PROHIBITION OF EXTENSION OF SUBSIDIZED
19 RATES TO LAPSED POLICIES.—Notwithstanding any
20 other provision of law relating to chargeable risk premium
21 rates for flood insurance coverage under this title, the Ad-
22 ministrator shall not provide flood insurance coverage
23 under this title for any property for which a policy for
24 such coverage for the property has previously lapsed in
25 coverage as a result of the deliberate choice of the holder

1 of such policy, at a rate less than the applicable estimated
2 risk premium rates for the area (or subdivision thereof)
3 in which such property is located.”.

4 (e) RECOGNITION OF STATE AND LOCAL FUNDING
5 FOR CONSTRUCTION, RECONSTRUCTION, AND IMPROVE-
6 MENT OF FLOOD PROTECTION SYSTEMS IN DETERMINA-
7 TION OF RATES.—

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

11 (A) in subsection (e)—

12 (i) in the first sentence, by striking
13 “construction of a flood protection system”
14 and inserting “construction, reconstruc-
15 tion, or improvement of a flood protection
16 system (without respect to the level of Fed-
17 eral investment or participation)”; and

18 (ii) in the second sentence—

19 (I) by striking “construction of a
20 flood protection system” and inserting
21 “construction, reconstruction, or im-
22 provement of a flood protection sys-
23 tem”; and

1 (II) by inserting “based on the
2 present value of the completed sys-
3 tem” after “has been expended”; and

4 (B) in subsection (f)—

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

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

14 (iii) in paragraph (1), by striking “a
15 Federal agency in consultation with the
16 local project sponsor” and inserting “the
17 entity or entities that own, operate, main-
18 tain, or repair such system”.

19 (2) REGULATIONS.—The Administrator of the
20 Federal Emergency Management Agency shall pro-
21 mulgate regulations to implement this subsection
22 and the amendments made by this subsection as
23 soon as practicable, but not more than 18 months
24 after the date of the enactment of this Act. Para-
25 graph (3) may not be construed to annul, alter, af-

1 fect, authorize any waiver of, or establish any excep-
2 tion to, the requirement under the preceding sen-
3 tence.

4 **SEC. 346. TECHNICAL MAPPING ADVISORY COUNCIL.**

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

8 (b) MEMBERSHIP.—

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

11 (A) the Administrator of the Federal
12 Emergency Management Agency (in this section
13 referred to as the “Administrator”), or the des-
14 ignee thereof;

15 (B) the Director of the United States Geo-
16 logical Survey of the Department of the Inte-
17 rior, or the designee thereof;

18 (C) the Under Secretary of Commerce for
19 Oceans and Atmosphere, or the designee there-
20 of;

21 (D) the commanding officer of the United
22 States Army Corps of Engineers, or the des-
23 ignee thereof;

1 (E) the chief of the Natural Resources
2 Conservation Service of the Department of Ag-
3 riculture, or the designee thereof;

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

7 (G) the Assistant Administrator for Fish-
8 eries of the National Oceanic and Atmospheric
9 Administration of the Department of Com-
10 merce, or the designee thereof; and

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

14 (i) an expert in data management;

15 (ii) an expert in real estate;

16 (iii) an expert in insurance;

17 (iv) a member of a recognized regional
18 flood and storm water management organi-
19 zation;

20 (v) a representative of a State emer-
21 gency management agency or association
22 or organization for such agencies;

23 (vi) a member of a recognized profes-
24 sional surveying association or organiza-
25 tion;

1 (vii) a member of a recognized profes-
2 sional mapping association or organization;

3 (viii) a member of a recognized pro-
4 fessional engineering association or organi-
5 zation;

6 (ix) a member of a recognized profes-
7 sional association or organization rep-
8 resenting flood hazard determination firms;

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

11 (xi) representatives of two local gov-
12 ernments, at least one of whom is a local
13 levee flood manager or executive, des-
14 ignated by the Federal Emergency Man-
15 agement Agency as Cooperating Technical
16 Partners; and

17 (xii) representatives of two State gov-
18 ernments designated by the Federal Emer-
19 gency Management Agency as Cooperating
20 Technical States.

21 (2) QUALIFICATIONS.—Members of the Council
22 shall be appointed based on their demonstrated
23 knowledge and competence regarding surveying, car-
24 tography, remote sensing, geographic information
25 systems, or the technical aspects of preparing and

1 using flood insurance rate maps. In appointing
2 members under paragraph (1)(H), the Administrator
3 shall ensure that the membership of the Council has
4 a balance of Federal, State, local, and private mem-
5 bers, and includes an adequate number of represent-
6 atives from the States with coastline on the Gulf of
7 Mexico and other States containing areas identified
8 by the Administrator of the Federal Emergency
9 Management Agency as at high-risk for flooding or
10 special flood hazard areas.

11 (c) DUTIES.—

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

22 (A) ensure that the flood insurance rate
23 maps reflect true risk, including graduated risk
24 that better reflects the financial risk to each
25 property; such reflection of risk should be at

1 the smallest geographic level possible (but not
2 necessarily property-by-property) to ensure that
3 communities are mapped in a manner that
4 takes into consideration different risk levels
5 within the community;

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

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

16 (D) determine the best ways to include in
17 such flood insurance rate maps levees, decerti-
18 fied levees, and areas located below dams, in-
19 cluding determining a methodology for ensuring
20 that decertified levees and other protections are
21 included in flood insurance rate maps and their
22 corresponding flood zones reflect the level of
23 protection conferred;

24 (E) consider how to incorporate restored
25 wetlands and other natural buffers into flood

1 insurance rate maps, which may include wet-
2 lands, groundwater recharge areas, erosion
3 zones, meander belts, endangered species habi-
4 tat, barrier islands and shoreline buffer fea-
5 tures, riparian forests, and other features;

6 (F) consider whether to use vertical posi-
7 tioning (as defined by the Administrator) for
8 flood insurance rate maps;

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

15 (H) ensure that flood insurance rate maps
16 take into consideration the best scientific data
17 and potential future conditions (including pro-
18 jections for sea level rise); and

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

22 (2) ONGOING DUTIES.—The Council shall, on
23 an ongoing basis, review the mapping protocols de-
24 veloped pursuant to paragraph (1), and make rec-
25 ommendations to the Administrator when the Coun-

1 cil determines that mapping protocols should be al-
2 tered.

3 (3) MEETINGS.—In carrying out its duties
4 under this section, the Council shall consult with
5 stakeholders through at least 4 public meetings an-
6 nually, and shall seek input of all stakeholder inter-
7 ests including State and local representatives, envi-
8 ronmental and conservation organizations, insurance
9 industry representatives, advocacy groups, planning
10 organizations, and mapping organizations.

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

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

16 (f) STAFF.—

17 (1) FEMA.—Upon the request of the Council,
18 the Administrator may detail, on a nonreimbursable
19 basis, personnel of the Federal Emergency Manage-
20 ment Agency to assist the Council in carrying out its
21 duties.

22 (2) OTHER FEDERAL AGENCIES.—Upon request
23 of the Council, any other Federal agency that is a
24 member of the Council may detail, on a non-reim-

1 bursable basis, personnel to assist the Council in
2 carrying out its duties.

3 (g) POWERS.—In carrying out this section, the Coun-
4 cil may hold hearings, receive evidence and assistance, pro-
5 vide information, and conduct research, as the Council
6 considers appropriate.

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

10 (i) MORATORIUM ON FLOOD MAP CHANGES.—

11 (1) MORATORIUM.—Except as provided in para-
12 graph (2) and notwithstanding any other provision
13 of this subtitle, the National Flood Insurance Act of
14 1968, or the Flood Disaster Protection Act of 1973,
15 during the period beginning upon the date of the en-
16 actment of this Act and ending upon the submission
17 by the Council to the Administrator and the Con-
18 gress of the proposed new mapping standards re-
19 quired under subsection (c)(1), the Administrator
20 may not make effective any new or updated rate
21 maps for flood insurance coverage under the na-
22 tional flood insurance program that were not in ef-
23 fect for such program as of such date of enactment,
24 or otherwise revise, update, or change the flood in-

1 surance rate maps in effect for such program as of
2 such date.

3 (2) LETTERS OF MAP CHANGE.—During the pe-
4 riod described in paragraph (1), the Administrator
5 may revise, update, and change the flood insurance
6 rate maps in effect for the national flood insurance
7 program only pursuant to a letter of map change
8 (including a letter of map amendment, letter of map
9 revision, and letter of map revision based on fill).

10 **SEC. 347. FEMA INCORPORATION OF NEW MAPPING PROTO-**
11 **COLS.**

12 (a) NEW RATE MAPPING STANDARDS.—Not later
13 than the expiration of the 6-month period beginning upon
14 submission by the Technical Mapping Advisory Council
15 under section 346 of the proposed new mapping standards
16 for flood insurance rate maps used under the national
17 flood insurance program developed by the Council pursu-
18 ant to section 346(c), the Administrator of the Federal
19 Emergency Management Agency (in this section referred
20 to as the “Administrator”) shall establish new standards
21 for such rate maps based on such proposed new standards
22 and the recommendations of the Council.

23 (b) REQUIREMENTS.—The new standards for flood
24 insurance rate maps established by the Administrator pur-
25 suant to subsection (a) shall—

1 (1) delineate and include in any such rate
2 maps—

3 (A) all areas located within the 100-year
4 flood plain; and

5 (B) areas subject to graduated and other
6 risk levels, to the maximum extent possible;

7 (2) ensure that any such rate maps—

8 (A) include levees, including decertified lev-
9 ees, and the level of protection they confer;

10 (B) reflect current land use and topog-
11 raphy and incorporate the most current and ac-
12 curate ground level data;

13 (C) take into consideration the impacts
14 and use of fill and the flood risks associated
15 with altered hydrology;

16 (D) differentiate between a property that
17 is located in a flood zone and a structure lo-
18 cated on such property that is not at the same
19 risk level for flooding as such property due to
20 the elevation of the structure;

21 (E) identify and incorporate natural fea-
22 tures and their associated flood protection bene-
23 fits into mapping and rates; and

24 (F) identify, analyze, and incorporate the
25 impact of significant changes to building and

1 development throughout any river or costal
2 water system, including all tributaries, which
3 may impact flooding in areas downstream; and
4 (3) provide that such rate maps are developed
5 on a watershed basis.

6 (c) REPORT.—If, in establishing new standards for
7 flood insurance rate maps pursuant to subsection (a) of
8 this section, the Administrator does not implement all of
9 the recommendations of the Council made under the pro-
10 posed new mapping standards developed by the Council
11 pursuant to section 346(c), upon establishment of the new
12 standards the Administrator shall submit a report to the
13 Committee on Financial Services of the House of Rep-
14 resentatives and the Committee on Banking, Housing, and
15 Urban Affairs of the Senate specifying which such rec-
16 ommendations were not adopted and explaining the rea-
17 sons such recommendations were not adopted.

18 (d) IMPLEMENTATION.—The Administrator shall, not
19 later than the expiration of the 6-month period beginning
20 upon establishment of the new standards for flood insur-
21 ance rate maps pursuant to subsection (a) of this section,
22 commence use of the new standards and updating of flood
23 insurance rate maps in accordance with the new stand-
24 ards. Not later than the expiration of the 10-year period
25 beginning upon the establishment of such new standards,

1 the Administrator shall complete updating of all flood in-
2 surance rate maps in accordance with the new standards,
3 subject to the availability of sufficient amounts for such
4 activities provided in appropriation Acts.

5 (e) TEMPORARY SUSPENSION OF MANDATORY PUR-
6 CHASE REQUIREMENT FOR CERTAIN PROPERTIES.—

7 (1) SUBMISSION OF ELEVATION CERTIFI-
8 CATE.—Subject to paragraphs (2) and (3) of this
9 subsection, subsections (a), (b), and (e) of section
10 102 of the Flood Disaster Protection Act of 1973
11 (42 U.S.C. 4012a), and section 202(a) of such Act,
12 shall not apply to a property located in an area des-
13 ignated as having a special flood hazard if the owner
14 of such property submits to the Administrator an
15 elevation certificate for such property showing that
16 the lowest level of the primary residence on such
17 property is at an elevation that is at least three feet
18 higher than the elevation of the 100-year flood plain.

19 (2) REVIEW OF CERTIFICATE.—The Adminis-
20 trator shall accept as conclusive each elevation cer-
21 tificate submitted under paragraph (1) unless the
22 Administrator conducts a subsequent elevation sur-
23 vey and determines that the lowest level of the pri-
24 mary residence on the property in question is not at
25 an elevation that is at least three feet higher than

1 the elevation of the 100-year flood plain. The Ad-
2 ministrator shall provide any such subsequent ele-
3 vation survey to the owner of such property.

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

6 (A) EXPEDITED DETERMINATION.—In the
7 case of any survey for a property submitted to
8 the Administrator pursuant to paragraph (1)
9 showing that a portion of the property is lo-
10 cated within an area having special flood haz-
11 ards and that a structure located on the prop-
12 erty is not located within such area having spe-
13 cial flood hazards, the Administrator shall expe-
14 ditiously process any request made by an owner
15 of the property for a determination pursuant to
16 paragraph (2) or a determination of whether
17 the structure is located within the area having
18 special flood hazards.

19 (B) PROHIBITION OF FEE.—If the Admin-
20 istrator determines pursuant to subparagraph
21 (A) that the structure on the property is not lo-
22 cated within the area having special flood haz-
23 ards, the Administrator shall not charge a fee
24 for reviewing the flood hazard data and shall

1 not require the owner to provide any additional
2 elevation data.

3 (C) SIMPLIFICATION OF REVIEW PROC-
4 ESS.—The Administrator shall collaborate with
5 private sector flood insurers to simplify the re-
6 view process for properties described in sub-
7 paragraph (A) and to ensure that the review
8 process provides for accurate determinations.

9 (4) TERMINATION OF AUTHORITY.—This sub-
10 section shall cease to apply to a property on the date
11 on which the Administrator updates the flood insur-
12 ance rate map that applies to such property in ac-
13 cordance with the requirements of subsection (d).

14 **SEC. 348. TREATMENT OF LEVEES.**

15 Section 1360 of the National Flood Insurance Act of
16 1968 (42 U.S.C. 4101) is amended by adding at the end
17 the following new subsection:

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

1 **SEC. 349. PRIVATIZATION INITIATIVES.**

2 (a) FEMA AND GAO REPORTS.—Not later than the
3 expiration of the 18-month period beginning on the date
4 of the enactment of this Act, the Administrator of the
5 Federal Emergency Management Agency and the Comp-
6 troller General of the United States shall each conduct a
7 separate study to assess a broad range of options, meth-
8 ods, and strategies for privatizing the national flood insur-
9 ance program and shall each submit a report to the Com-
10 mittee on Financial Services of the House of Representa-
11 tives and the Committee on Banking, Housing, and Urban
12 Affairs of the Senate with recommendations for the best
13 manner to accomplish such privatization.

14 (b) PRIVATE RISK-MANAGEMENT INITIATIVES.—

15 (1) AUTHORITY.—The Administrator of the
16 Federal Emergency Management Agency may carry
17 out such private risk-management initiatives under
18 the national flood insurance program as the Admin-
19 istrator considers appropriate to determine the ca-
20 pacity of private insurers, reinsurers, and financial
21 markets to assist communities, on a voluntary basis
22 only, in managing the full range of financial risks
23 associated with flooding.

24 (2) ASSESSMENT.—Not later than the expira-
25 tion of the 12-month period beginning on the date
26 of the enactment of this Act, the Administrator shall

1 assess the capacity of the private reinsurance, cap-
2 ital, and financial markets by seeking proposals to
3 assume a portion of the program's insurance risk
4 and submit to the Congress a report describing the
5 response to such request for proposals and the re-
6 sults of such assessment.

7 (3) PROTOCOL FOR RELEASE OF DATA.—The
8 Administrator shall develop a protocol to provide for
9 the release of data sufficient to conduct the assess-
10 ment required under paragraph (2).

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

13 (1) in section 1331(a)(2) (42 U.S.C.
14 4051(a)(2)), by inserting “, including as reinsurance
15 of insurance coverage provided by the flood insur-
16 ance program” before “, on such terms”;

17 (2) in section 1332(c)(2) (42 U.S.C.
18 4052(c)(2)), by inserting “or reinsurance” after
19 “flood insurance coverage”;

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

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

22 (B) by adding at the end the following new
23 paragraph:

24 “(2) The Administrator is authorized to secure rein-
25 surance coverage of coverage provided by the flood insur-

1 ance program from private market insurance, reinsurance,
2 and capital market sources at rates and on terms deter-
3 mined by the Administrator to be reasonable and appro-
4 priate in an amount sufficient to maintain the ability of
5 the program to pay claims and that minimizes the likeli-
6 hood that the program will utilize the borrowing authority
7 provided under section 1309.”;

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

9 (A) in the matter preceding paragraph (1),
10 by inserting “, or for purposes of securing rein-
11 surance of insurance coverage provided by the
12 program,” before “of any or all of”;

13 (B) in paragraph (1)—

14 (i) by striking “estimating” and in-
15 serting “Estimating”; and

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

18 (C) in paragraph (2)—

19 (i) by striking “receiving” and insert-
20 ing “Receiving”; and

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

23 (D) in paragraph (3)—

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

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

3 (E) in paragraph (4)—

4 (i) by striking “otherwise” and insert-
5 ing “Otherwise”; and

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

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

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

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

20 (d) ASSESSMENT OF CLAIMS-PAYING ABILITY.—

21 (1) ASSESSMENT.—Not later than September
22 30 of each year, the Administrator of the Federal
23 Emergency Management Agency shall conduct an
24 assessment of the claims-paying ability of the na-
25 tional flood insurance program, including the pro-

1 gram’s utilization of private sector reinsurance and
2 reinsurance equivalents, with and without reliance
3 on borrowing authority under section 1309 of the
4 National Flood Insurance Act of 1968 (42 U.S.C.
5 4016). In conducting the assessment, the Adminis-
6 trator shall take into consideration regional con-
7 centrations of coverage written by the program, peak
8 flood zones, and relevant mitigation measures.

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

14 **SEC. 350. FEMA ANNUAL REPORT ON INSURANCE PRO-**
15 **GRAM.**

16 Section 1320 of the National Flood Insurance Act of
17 1968 (42 U.S.C. 4027) is amended—

18 (1) in the section heading, by striking “REPORT
19 TO THE PRESIDENT” and inserting “ANNUAL RE-
20 PORT TO CONGRESS”;

21 (2) in subsection (a)—

22 (A) by striking “biennially”;

23 (B) by striking “the President for submis-
24 sion to”; and

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

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

5 (4) by adding at the end the following new sub-
6 section:

7 “(c) FINANCIAL STATUS OF PROGRAM.—The report
8 under this section for each year shall include information
9 regarding the financial status of the national flood insur-
10 ance program under this title, including a description of
11 the financial status of the National Flood Insurance Fund
12 and current and projected levels of claims, premium re-
13 ceipts, expenses, and borrowing under the program.”.

14 **SEC. 351. MITIGATION ASSISTANCE.**

15 (a) MITIGATION ASSISTANCE GRANTS.—Section
16 1366 of the National Flood Insurance Act of 1968 (42
17 U.S.C. 4104c) is amended—

18 (1) in subsection (a), by striking the last sen-
19 tence and inserting the following: “Such financial
20 assistance shall be made available—

21 “(1) to States and communities in the form of
22 grants under this section for carrying out mitigation
23 activities;

24 “(2) to States and communities in the form of
25 grants under this section for carrying out mitigation

1 activities that reduce flood damage to severe repet-
2 itive loss structures; and

3 “(3) to property owners in the form of direct
4 grants under this section for carrying out mitigation
5 activities that reduce flood damage to individual
6 structures for which 2 or more claim payments for
7 losses have been made under flood insurance cov-
8 erage under this title if the Administrator, after con-
9 sultation with the State and community, determines
10 that neither the State nor community in which such
11 a structure is located has the capacity to manage
12 such grants.”.

13 (2) by striking subsection (b);

14 (3) in subsection (c)—

15 (A) by striking “flood risk” and inserting
16 “multi-hazard”;

17 (B) by striking “provides protection
18 against” and inserting “examines reduction of”;

19 and

20 (C) by redesignating such subsection as
21 subsection (b);

22 (4) by striking subsection (d);

23 (5) in subsection (e)—

24 (A) in paragraph (1), by striking the para-
25 graph designation and all that follows through

1 the end of the first sentence and inserting the
2 following:

3 “(1) REQUIREMENT OF CONSISTENCY WITH AP-
4 PROVED MITIGATION PLAN.—Amounts provided
5 under this section may be used only for mitigation
6 activities that are consistent with mitigation plans
7 that are approved by the Administrator and identi-
8 fied under subparagraph (4).”;

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

11 “(2) REQUIREMENTS OF TECHNICAL FEASI-
12 BILITY, COST EFFECTIVENESS, AND INTEREST OF
13 NFIF.—The Administrator may approve only mitiga-
14 tion activities that the Administrator determines are
15 technically feasible and cost-effective and in the in-
16 terest of, and represent savings to, the National
17 Flood Insurance Fund. In making such determina-
18 tions, the Administrator shall take into consideration
19 recognized benefits that are difficult to quantify.

20 “(3) PRIORITY FOR MITIGATION ASSISTANCE.—
21 In providing grants under this section for mitigation
22 activities, the Administrator shall give priority for
23 funding to activities that the Administrator deter-
24 mines will result in the greatest savings to the Na-

1 tional Flood Insurance Fund, including activities
2 for—

3 “(A) severe repetitive loss structures;

4 “(B) repetitive loss structures; and

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

7 (C) in paragraph (5)—

8 (i) by striking all of the matter that
9 precedes subparagraph (A) and inserting
10 the following:

11 “(4) ELIGIBLE ACTIVITIES.—Eligible activities
12 may include—”;

13 (ii) by striking subparagraphs (E) and
14 (H);

15 (iii) by redesignating subparagraphs
16 (D), (F), and (G) as subparagraphs (E),
17 (G), and (H);

18 (iv) by inserting after subparagraph
19 (C) the following new subparagraph:

20 “(D) elevation, relocation, and
21 floodproofing of utilities (including equipment
22 that serve structures);”;

23 (v) by inserting after subparagraph
24 (E), as so redesignated by clause (iii) of

1 this subparagraph, the following new sub-
2 paragraph:

3 “(F) the development or update of State,
4 local, or Indian tribal mitigation plans which
5 meet the planning criteria established by the
6 Administrator, except that the amount from
7 grants under this section that may be used
8 under this subparagraph may not exceed
9 \$50,000 for any mitigation plan of a State or
10 \$25,000 for any mitigation plan of a local gov-
11 ernment or Indian tribe;”;

12 (vi) in subparagraph (H); as so redes-
13 ignated by clause (iii) of this subpara-
14 graph, by striking “and” at the end; and

15 (vii) by adding at the end the fol-
16 lowing new subparagraphs:

17 “(I) other mitigation activities not de-
18 scribed in subparagraphs (A) through (G) or
19 the regulations issued under subparagraph (H),
20 that are described in the mitigation plan of a
21 State, community, or Indian tribe; and

22 “(J) personnel costs for State staff that
23 provide technical assistance to communities to
24 identify eligible activities, to develop grant ap-
25 plications, and to implement grants awarded

1 under this section, not to exceed \$50,000 per
2 State in any Federal fiscal year, so long as the
3 State applied for and was awarded at least
4 \$1,000,000 in grants available under this sec-
5 tion in the prior Federal fiscal year; the re-
6 quirements of subsections (d)(1) and (d)(2)
7 shall not apply to the activity under this sub-
8 paragraph.”;

9 (D) by adding at the end the following new
10 paragraph:

11 “(6) ELIGIBILITY OF DEMOLITION AND RE-
12 BUILDING OF PROPERTIES.—The Administrator
13 shall consider as an eligible activity the demolition
14 and rebuilding of properties to at least base flood
15 elevation or greater, if required by the Administrator
16 or if required by any State regulation or local ordi-
17 nance, and in accordance with criteria established by
18 the Administrator.”; and

19 (E) by redesignating such subsection as
20 subsection (c);

21 (6) by striking subsections (f), (g), and (h) and
22 inserting the following new subsection:

23 “(d) MATCHING REQUIREMENT.—The Administrator
24 may provide grants for eligible mitigation activities as fol-
25 lows:

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

5 “(2) REPETITIVE LOSS STRUCTURES.—In the
6 case of mitigation activities to repetitive loss struc-
7 tures, in an amount up to 90 percent of all eligible
8 costs.

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

12 (7) in subsection (i)—

13 (A) in paragraph (2)—

14 (i) by striking “certified under sub-
15 section (g)” and inserting “required under
16 subsection (d)”;

17 (ii) by striking “3 times the amount”
18 and inserting “the amount”;

19 (B) by redesignating such subsection as
20 subsection (e);

21 (8) in subsection (j)—

22 (A) by striking “Riegle Community Devel-
23 opment and Regulatory Improvement Act of
24 1994” and inserting “Flood Insurance Reform
25 Act of 2012”;

1 (B) by redesignating such subsection as
2 subsection (f); and

3 (9) by striking subsections (k) and (m) and in-
4 serting the following new subsections:

5 “(g) FAILURE TO MAKE GRANT AWARD WITHIN 5
6 YEARS.—For any application for a grant under this sec-
7 tion for which the Administrator fails to make a grant
8 award within 5 years of the date of application, the grant
9 application shall be considered to be denied and any fund-
10 ing amounts allocated for such grant applications shall re-
11 main in the National Flood Mitigation Fund under section
12 1367 of this title and shall be made available for grants
13 under this section.

14 “(h) LIMITATION ON FUNDING FOR MITIGATION AC-
15 TIVITIES FOR SEVERE REPETITIVE LOSS STRUCTURES.—
16 The amount used pursuant to section 1310(a)(8) in any
17 fiscal year may not exceed \$40,000,000 and shall remain
18 available until expended.

19 “(i) DEFINITIONS.—For purposes of this section, the
20 following definitions shall apply:

21 “(1) COMMUNITY.—The term ‘community’
22 means—

23 “(A) a political subdivision that—

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

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

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

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

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

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

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

21 “(i) for which 4 or more separate
22 claims payments have been made under
23 flood insurance coverage under this title,
24 with the amount of each such claim ex-
25 ceeding \$15,000, and with the cumulative

1 amount of such claims payments exceeding
2 \$60,000; or

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

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

12 (c) ELIMINATION OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.—Chapter
13 III of the National Flood Insurance Act of 1968 is
14 amended by striking section 1361A (42 U.S.C. 4102a).

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

19 (1) in paragraph (7), by inserting “and” after
20 the semicolon; and

21 (2) by striking paragraphs (8) and (9).

22 (e) NATIONAL FLOOD MITIGATION FUND.—Section
23 1367 of the National Flood Insurance Act of 1968 (42
24 U.S.C. 4104d) is amended—

25 (1) in subsection (b)—

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

3 “(1) in each fiscal year, from the National
4 Flood Insurance Fund in amounts not exceeding
5 \$90,000,000 to remain available until expended, of
6 which—

7 “(A) not more than \$40,000,000 shall be
8 available pursuant to subsection (a) of this sec-
9 tion only for assistance described in section
10 1366(a)(1);

11 “(B) not more than \$40,000,000 shall be
12 available pursuant to subsection (a) of this sec-
13 tion only for assistance described in section
14 1366(a)(2); and

15 “(C) not more than \$10,000,000 shall be
16 available pursuant to subsection (a) of this sec-
17 tion only for assistance described in section
18 1366(a)(3).”.

19 (B) in paragraph (3), by striking “section
20 1366(i)” and inserting “section 1366(e)”;

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

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

1 (4) by inserting after subsection (c) the fol-
2 lowing new subsections:

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

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

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

21 (1) by striking subparagraph (B); and
22 (2) by redesignating subparagraphs (C), (D),
23 and (E) as subparagraphs (B), (C), and (D), respec-
24 tively.

1 **SEC. 352. NOTIFICATION TO HOMEOWNERS REGARDING**
2 **MANDATORY PURCHASE REQUIREMENT AP-**
3 **PLICABILITY AND RATE PHASE-INS.**

4 Section 201 of the Flood Disaster Protection Act of
5 1973 (42 U.S.C. 4105) is amended by adding at the end
6 the following new subsection:

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

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

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

14 “(3) of whether section 1308(g) of the National
15 Flood Insurance Act of 1968 applies to properties
16 within such area;

17 “(4) of the provisions of section 102 requiring
18 purchase of flood insurance coverage for properties
19 located in such an area, including the date on which
20 such provisions apply with respect to such area, tak-
21 ing into consideration section 102(i); and

22 “(5) of a general estimate of what similar
23 homeowners in similar areas typically pay for flood
24 insurance coverage, taking into consideration section
25 1308(g) of the National Flood Insurance Act of
26 1968.”.

1 **SEC. 353. NOTIFICATION TO MEMBERS OF CONGRESS OF**
2 **FLOOD MAP REVISIONS AND UPDATES.**

3 Section 1360 of the National Flood Insurance Act of
4 1968 (42 U.S.C. 4101), as amended by the preceding pro-
5 visions of this subtitle, is further amended by adding at
6 the end the following new subsection:

7 “(1) NOTIFICATION TO MEMBERS OF CONGRESS OF
8 MAP MODERNIZATION.—Upon any revision or update of
9 any floodplain area or flood-risk zone pursuant to sub-
10 section (f), any decision pursuant to subsection (f)(1) that
11 such revision or update is necessary, any issuance of pre-
12 liminary maps for such revision or updating, or any other
13 significant action relating to any such revision or update,
14 the Administrator shall notify the Senators for each State
15 affected, and each Member of the House of Representa-
16 tives for each congressional district affected, by such revi-
17 sion or update in writing of the action taken.”.

18 **SEC. 354. NOTIFICATION AND APPEAL OF MAP CHANGES;**
19 **NOTIFICATION TO COMMUNITIES OF ESTAB-**
20 **LISHMENT OF FLOOD ELEVATIONS.**

21 Section 1363 of the National Flood Insurance Act of
22 1968 (42 U.S.C. 4104) is amended by striking the section
23 designation and all that follows through the end of sub-
24 section (a) and inserting the following:

25 “SEC. 1363. (a) In establishing projected flood ele-
26 vations for land use purposes with respect to any commu-

1 nity pursuant to section 1361, the Administrator shall
2 first propose such determinations—

3 “(1) by providing the chief executive officer of
4 each community affected by the proposed elevations,
5 by certified mail, with a return receipt requested,
6 notice of the elevations, including a copy of the maps
7 for the elevations for such community and a state-
8 ment explaining the process under this section to ap-
9 peal for changes in such elevations;

10 “(2) by causing notice of such elevations to be
11 published in the Federal Register, which notice shall
12 include information sufficient to identify the ele-
13 vation determinations and the communities affected,
14 information explaining how to obtain copies of the
15 elevations, and a statement explaining the process
16 under this section to appeal for changes in the ele-
17 vations;

18 “(3) by publishing in a prominent local news-
19 paper the elevations, a description of the appeals
20 process for flood determinations, and the mailing ad-
21 dress and telephone number of a person the owner
22 may contact for more information or to initiate an
23 appeal;

1 “(4) by providing written notification, by first
2 class mail, to each owner of real property affected by
3 the proposed elevations of—

4 “(A) the status of such property, both
5 prior to and after the effective date of the pro-
6 posed determination, with respect to flood zone
7 and flood insurance requirements under this
8 Act and the Flood Disaster Protection Act of
9 1973;

10 “(B) the process under this section to ap-
11 peal a flood elevation determination; and

12 “(C) the mailing address and phone num-
13 ber of a person the owner may contact for more
14 information or to initiate an appeal; and”.

15 **SEC. 355. NOTIFICATION TO TENANTS OF AVAILABILITY OF**
16 **CONTENTS INSURANCE.**

17 The National Flood Insurance Act of 1968 is amend-
18 ed by inserting after section 1308 (42 U.S.C. 4015) the
19 following new section:

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

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

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

3 “(2) require the insured to provide a copy of
4 the notice, or otherwise provide notification of the
5 information under subsection (b) in the manner that
6 the manager or landlord deems most appropriate, to
7 each such tenant and to each new tenant upon com-
8 mencement of such a tenancy.

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

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

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

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

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

1 **SEC. 356. NOTIFICATION TO POLICY HOLDERS REGARDING**
2 **DIRECT MANAGEMENT OF POLICY BY FEMA.**

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

6 **“SEC. 1349. NOTIFICATION TO POLICY HOLDERS REGARD-**
7 **ING DIRECT MANAGEMENT OF POLICY BY**
8 **FEMA.**

9 “(a) NOTIFICATION.—Not later than 60 days before
10 the date on which a transferred flood insurance policy ex-
11 pires, and annually thereafter until such time as the Fed-
12 eral Emergency Management Agency is no longer directly
13 administering such policy, the Administrator shall notify
14 the holder of such policy that—

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

17 “(2) such holder may purchase flood insurance
18 that is directly administered by an insurance com-
19 pany; and

20 “(3) purchasing flood insurance offered under
21 the National Flood Insurance Program that is di-
22 rectly administered by an insurance company will
23 not alter the coverage provided or the premiums
24 charged to such holder that otherwise would be pro-
25 vided or charged if the policy was directly adminis-

1 tered by the Federal Emergency Management Agen-
2 cy.

3 “(b) DEFINITION.—In this section, the term ‘trans-
4 ferred flood insurance policy’ means a flood insurance pol-
5 icy that—

6 “(1) was directly administered by an insurance
7 company at the time the policy was originally pur-
8 chased by the policy holder; and

9 “(2) at the time of renewal of the policy, direct
10 administration of the policy was or will be trans-
11 ferred to the Federal Emergency Management Agen-
12 cy.”.

13 **SEC. 357. NOTICE OF AVAILABILITY OF FLOOD INSURANCE**
14 **AND ESCROW IN RESPA GOOD FAITH ESTI-**
15 **MATE.**

16 Subsection (c) of section 5 of the Real Estate Settle-
17 ment Procedures Act of 1974 (12 U.S.C. 2604(c)) is
18 amended by adding at the end the following new sentence:
19 “Each such good faith estimate shall include the following
20 conspicuous statements and information: (1) that flood in-
21 surance coverage for residential real estate is generally
22 available under the national flood insurance program
23 whether or not the real estate is located in an area having
24 special flood hazards and that, to obtain such coverage,
25 a home owner or purchaser should contact the national

1 flood insurance program; (2) a telephone number and a
 2 location on the Internet by which a home owner or pur-
 3 chaser can contact the national flood insurance program;
 4 and (3) that the escrowing of flood insurance payments
 5 is required for many loans under section 102(d) of the
 6 Flood Disaster Protection Act of 1973, and may be a con-
 7 venient and available option with respect to other loans.”.

8 **SEC. 358. REIMBURSEMENT FOR COSTS INCURRED BY**
 9 **HOMEOWNERS AND COMMUNITIES OBTAIN-**
 10 **ING LETTERS OF MAP AMENDMENT OR REVI-**
 11 **SION.**

12 (a) IN GENERAL.—Section 1360 of the National
 13 Flood Insurance Act of 1968 (42 U.S.C. 4101), as amend-
 14 ed by the preceding provisions of this subtitle, is further
 15 amended by adding at the end the following new sub-
 16 section:

17 “(m) REIMBURSEMENT.—

18 “(1) REQUIREMENT UPON BONA FIDE
 19 ERROR.—If an owner of any property located in an
 20 area described in section 102(i)(3) of the Flood Dis-
 21 aster Protection Act of 1973, or a community in
 22 which such a property is located, obtains a letter of
 23 map amendment, or a letter of map revision, due to
 24 a bona fide error on the part of the Administrator
 25 of the Federal Emergency Management Agency, the

1 Administrator shall reimburse such owner, or such
2 entity or jurisdiction acting on such owner's behalf,
3 or such community, as applicable, for any reasonable
4 costs incurred in obtaining such letter.

5 “(2) REASONABLE COSTS.—The Administrator
6 shall, by regulation or notice, determine a reasonable
7 amount of costs to be reimbursed under paragraph
8 (1), except that such costs shall not include legal or
9 attorneys fees. In determining the reasonableness of
10 costs, the Administrator shall only consider the ac-
11 tual costs to the owner or community, as applicable,
12 of utilizing the services of an engineer, surveyor, or
13 similar services.”.

14 (b) REGULATIONS.—Not later than 90 days after the
15 date of the enactment of this Act, the Administrator of
16 the Federal Emergency Management Agency shall issue
17 the regulations or notice required under section
18 1360(m)(2) of the National Flood Insurance Act of 1968,
19 as added by the amendment made by subsection (a) of
20 this section.

21 **SEC. 359. ENHANCED COMMUNICATION WITH CERTAIN**
22 **COMMUNITIES DURING MAP UPDATING**
23 **PROCESS.**

24 Section 1360 of the National Flood Insurance Act of
25 1968 (42 U.S.C. 4101), as amended by the preceding pro-

1 visions of this subtitle, is further amended by adding at
2 the end the following new subsection:

3 “(n) ENHANCED COMMUNICATION WITH CERTAIN
4 COMMUNITIES DURING MAP UPDATING PROCESS.—In
5 updating flood insurance maps under this section, the Ad-
6 ministrator shall communicate with communities located
7 in areas where flood insurance rate maps have not been
8 updated in 20 years or more and the appropriate State
9 emergency agencies to resolve outstanding issues, provide
10 technical assistance, and disseminate all necessary infor-
11 mation to reduce the prevalence of outdated maps in flood-
12 prone areas.”.

13 **SEC. 360. NOTIFICATION TO RESIDENTS NEWLY INCLUDED**
14 **IN FLOOD HAZARD AREAS.**

15 Section 1360 of the National Flood Insurance Act of
16 1968 (42 U.S.C. 4101), as amended by the preceding pro-
17 visions of this subtitle, is further amended by adding at
18 the end the following new subsection:

19 “(o) NOTIFICATION TO RESIDENTS NEWLY IN-
20 CLUDED IN FLOOD HAZARD AREA.—In revising or updat-
21 ing any areas having special flood hazards, the Adminis-
22 trator shall provide to each owner of a property to be
23 newly included in such a special flood hazard area, at the
24 time of issuance of such proposed revised or updated flood
25 insurance maps, a copy of the proposed revised or updated

1 flood insurance maps together with information regarding
2 the appeals process under section 1363 (42 U.S.C.
3 4104).”.

4 **SEC. 361. TREATMENT OF SWIMMING POOL ENCLOSURES**
5 **OUTSIDE OF HURRICANE SEASON.**

6 Chapter I of the National Flood Insurance Act of
7 1968 (42 U.S.C. 4001 et seq.) is amended by adding at
8 the end the following new section:

9 **“SEC. 1325. TREATMENT OF SWIMMING POOL ENCLOSURES**
10 **OUTSIDE OF HURRICANE SEASON.**

11 “In the case of any property that is otherwise in com-
12 pliance with the coverage and building requirements of the
13 national flood insurance program, the presence of an en-
14 closed swimming pool located at ground level or in the
15 space below the lowest floor of a building after November
16 30 and before June 1 of any year shall have no effect on
17 the terms of coverage or the ability to receive coverage
18 for such building under the national flood insurance pro-
19 gram established pursuant to this title, if the pool is en-
20 closed with non-supporting breakaway walls.”.

21 **SEC. 362. INFORMATION REGARDING MULTIPLE PERILS**
22 **CLAIMS.**

23 Section 1345 of the National Flood Insurance Act of
24 1968 (42 U.S.C. 4081) is amended by adding at the end
25 the following new subsection:

1 “(d) INFORMATION REGARDING MULTIPLE PERILS
2 CLAIMS.—

3 “(1) IN GENERAL.—Subject to paragraph (2),
4 if an insured having flood insurance coverage under
5 a policy issued under the program under this title by
6 the Administrator or a company, insurer, or entity
7 offering flood insurance coverage under such pro-
8 gram (in this subsection referred to as a ‘partici-
9 pating company’) has wind or other homeowners
10 coverage from any company, insurer, or other entity
11 covering property covered by such flood insurance, in
12 the case of damage to such property that may have
13 been caused by flood or by wind, the Administrator
14 and the participating company, upon the request of
15 the insured, shall provide to the insured, within 30
16 days of such request—

17 “(A) a copy of the estimate of structure
18 damage;

19 “(B) proofs of loss;

20 “(C) any expert or engineering reports or
21 documents commissioned by or relied upon by
22 the Administrator or participating company in
23 determining whether the damage was caused by
24 flood or any other peril; and

1 “(D) the Administrator’s or the partici-
2 pating company’s final determination on the
3 claim.

4 “(2) TIMING.—Paragraph (1) shall apply only
5 with respect to a request described in such para-
6 graph made by an insured after the Administrator
7 or the participating company, or both, as applicable,
8 have issued a final decision on the flood claim in-
9 volved and resolution of all appeals with respect to
10 such claim.”.

11 **SEC. 363. FEMA AUTHORITY TO REJECT TRANSFER OF**
12 **POLICIES.**

13 Section 1345 of the National Flood Insurance Act of
14 1968 (42 U.S.C. 4081) is amended by adding at the end
15 the following new subsection:

16 “(e) FEMA AUTHORITY TO REJECT TRANSFER OF
17 POLICIES.—Notwithstanding any other provision of this
18 Act, the Administrator may, at the discretion of the Ad-
19 ministrator, refuse to accept the transfer of the adminis-
20 tration of policies for coverage under the flood insurance
21 program under this title that are written and administered
22 by any insurance company or other insurer, or any insur-
23 ance agent or broker.”.

1 **SEC. 364. APPEALS.**

2 (a) TELEVISION AND RADIO ANNOUNCEMENT.—Sec-
3 tion 1363 of the National Flood Insurance Act of 1968
4 (42 U.S.C. 4104), as amended by the preceding provisions
5 of this subtitle, is further amended—

6 (1) in subsection (a), by adding at the end the
7 following new paragraph:

8 “(5) by notifying a local television and radio
9 station,”; and

10 (2) in the first sentence of subsection (b), by in-
11 serting before the period at the end the following:

12 “and shall notify a local television and radio station
13 at least once during the same 10-day period”.

14 (b) EXTENSION OF APPEALS PERIOD.—Subsection
15 (b) of section 1363 of the National Flood Insurance Act
16 of 1968 (42 U.S.C. 4104(b)) is amended—

17 (1) by striking “(b) The Director” and insert-
18 ing “(b)(1) The Administrator”; and

19 (2) by adding at the end the following new
20 paragraph:

21 “(2) The Administrator shall grant an extension of
22 the 90-day period for appeals referred to in paragraph (1)
23 for 90 additional days if an affected community certifies
24 to the Administrator, after the expiration of at least 60
25 days of such period, that the community—

1 “(A) believes there are property owners or les-
2 sees in the community who are unaware of such pe-
3 riod for appeals; and

4 “(B) will utilize the extension under this para-
5 graph to notify property owners or lessees who are
6 affected by the proposed flood elevation determina-
7 tions of the period for appeals and the opportunity
8 to appeal the determinations proposed by the Ad-
9 ministrators.”.

10 (c) APPLICABILITY.—The amendments made by sub-
11 sections (a) and (b) shall apply with respect to any flood
12 elevation determination for any area in a community that
13 has not, as of the date of the enactment of this Act, been
14 issued a Letter of Final Determination for such deter-
15 mination under the flood insurance map modernization
16 process.

17 **SEC. 365. RESERVE FUND.**

18 (a) ESTABLISHMENT.—Chapter I of the National
19 Flood Insurance Act of 1968 is amended by inserting after
20 section 1310 (42 U.S.C. 4017) the following new section:

21 **“SEC. 1310A. RESERVE FUND.**

22 “(a) ESTABLISHMENT OF RESERVE FUND.—In car-
23 rying out the flood insurance program authorized by this
24 title, the Administrator shall establish in the Treasury of
25 the United States a National Flood Insurance Reserve

1 Fund (in this section referred to as the ‘Reserve Fund’)
2 which shall—

3 “(1) be an account separate from any other ac-
4 counts or funds available to the Administrator; and
5 “(2) be available for meeting the expected fu-
6 ture obligations of the flood insurance program.

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

10 “(1) 1 percent of the sum of the total potential
11 loss exposure of all outstanding flood insurance poli-
12 cies in force in the prior fiscal year; or

13 “(2) such higher percentage as the Adminis-
14 trator determines to be appropriate, taking into con-
15 sideration any circumstance that may raise a signifi-
16 cant risk of substantial future losses to the Reserve
17 Fund.

18 “(c) MAINTENANCE OF RESERVE RATIO.—

19 “(1) IN GENERAL.—The Administrator shall
20 have the authority to establish, increase, or decrease
21 the amount of aggregate annual insurance premiums
22 to be collected for any fiscal year necessary—

23 “(A) to maintain the reserve ratio required
24 under subsection (b); and

1 “(B) to achieve such reserve ratio, if the
2 actual balance of such reserve is below the
3 amount required under subsection (b).

4 “(2) CONSIDERATIONS.—In exercising the au-
5 thority under paragraph (1), the Administrator shall
6 consider—

7 “(A) the expected operating expenses of
8 the Reserve Fund;

9 “(B) the insurance loss expenditures under
10 the flood insurance program;

11 “(C) any investment income generated
12 under the flood insurance program; and

13 “(D) any other factor that the Adminis-
14 trator determines appropriate.

15 “(3) LIMITATIONS.—In exercising the authority
16 under paragraph (1), the Administrator shall be
17 subject to all other provisions of this Act, including
18 any provisions relating to chargeable premium rates
19 and annual increases of such rates.

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

22 “(1) IN GENERAL.—Beginning in fiscal year
23 2012 and not ending until the fiscal year in which
24 the ratio required under subsection (b) is achieved,
25 in each such fiscal year the Administrator shall

1 place in the Reserve Fund an amount equal to not
2 less than 7.5 percent of the reserve ratio required
3 under subsection (b).

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

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

16 “(e) LIMITATION ON RESERVE RATIO.—In any given
17 fiscal year, if the Administrator determines that the re-
18 serve ratio required under subsection (b) cannot be
19 achieved, the Administrator shall submit a report to the
20 Congress that—

21 “(1) describes and details the specific concerns
22 of the Administrator regarding such consequences;

23 “(2) demonstrates how such consequences
24 would harm the long-term financial soundness of the
25 flood insurance program; and

1 “(3) indicates the maximum attainable reserve
2 ratio for that particular fiscal year.

3 “(f) AVAILABILITY OF AMOUNTS.—The reserve ratio
4 requirements under subsection (b) and the phase-in re-
5 quirements under subsection (d) shall be subject to the
6 availability of amounts in the National Flood Insurance
7 Fund for transfer under section 1310(a)(10), as provided
8 in section 1310(f).”.

9 (b) FUNDING.—Subsection (a) of section 1310 of the
10 National Flood Insurance Act of 1968 (42 U.S.C.
11 4017(a)), as amended by the preceding provisions of this
12 Act, is further amended by adding at the end the following
13 new paragraph:

14 “(10) for transfers to the National Flood Insur-
15 ance Reserve Fund under section 1310A, in accord-
16 ance with such section.”.

17 **SEC. 366. CDBG ELIGIBILITY FOR FLOOD INSURANCE OUT-**
18 **REACH ACTIVITIES AND COMMUNITY BUILD-**
19 **ING CODE ADMINISTRATION GRANTS.**

20 Section 105(a) of the Housing and Community De-
21 velopment Act of 1974 (42 U.S.C. 5305(a)) is amended—

22 (1) in paragraph (24), by striking “and” at the
23 end;

24 (2) in paragraph (25), by striking the period at
25 the end and inserting a semicolon; and

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

3 “(26) supplementing existing State or local
4 funding for administration of building code enforce-
5 ment by local building code enforcement depart-
6 ments, including for increasing staffing, providing
7 staff training, increasing staff competence and pro-
8 fessional qualifications, and supporting individual
9 certification or departmental accreditation, and for
10 capital expenditures specifically dedicated to the ad-
11 ministration of the building code enforcement de-
12 partment, except that, to be eligible to use amounts
13 as provided in this paragraph—

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

18 “(i) in the case of a building code en-
19 forcement department serving an area with
20 a population of more than 50,000, equal to
21 not less than 50 percent of the total
22 amount of any funds made available under
23 this title that are used under this para-
24 graph;

1 “(ii) in the case of a building code en-
2 forcement department serving an area with
3 a population of between 20,001 and
4 50,000, equal to not less than 25 percent
5 of the total amount of any funds made
6 available under this title that are used
7 under this paragraph; and

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

15 except that the Secretary may waive the match-
16 ing fund requirements under this subparagraph,
17 in whole or in part, based upon the level of eco-
18 nomic distress of the jurisdiction in which is lo-
19 cated the local building code enforcement de-
20 partment that is using amounts for purposes
21 under this paragraph, and shall waive such
22 matching fund requirements in whole for any
23 recipient jurisdiction that has dedicated all
24 building code permitting fees to the conduct of
25 local building code enforcement; and

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

8 “(27) provision of assistance to local govern-
9 mental agencies responsible for floodplain manage-
10 ment activities (including such agencies of Indians
11 tribes, as such term is defined in section 4 of the
12 Native American Housing Assistance and Self-De-
13 termination Act of 1996 (25 U.S.C. 4103)) in com-
14 munities that participate in the national flood insur-
15 ance program under the National Flood Insurance
16 Act of 1968 (42 U.S.C. 4001 et seq.), only for car-
17 rying out outreach activities to encourage and facili-
18 tate the purchase of flood insurance protection
19 under such Act by owners and renters of properties
20 in such communities and to promote educational ac-
21 tivities that increase awareness of flood risk reduc-
22 tion; except that—

23 “(A) amounts used as provided under this
24 paragraph shall be used only for activities de-
25 signed to—

1 “(i) identify owners and renters of
2 properties in communities that participate
3 in the national flood insurance program,
4 including owners of residential and com-
5 mercial properties;

6 “(ii) notify such owners and renters
7 when their properties become included in,
8 or when they are excluded from, an area
9 having special flood hazards and the effect
10 of such inclusion or exclusion on the appli-
11 cability of the mandatory flood insurance
12 purchase requirement under section 102 of
13 the Flood Disaster Protection Act of 1973
14 (42 U.S.C. 4012a) to such properties;

15 “(iii) educate such owners and renters
16 regarding the flood risk and reduction of
17 this risk in their community, including the
18 continued flood risks to areas that are no
19 longer subject to the flood insurance man-
20 datory purchase requirement;

21 “(iv) educate such owners and renters
22 regarding the benefits and costs of main-
23 taining or acquiring flood insurance, in-
24 cluding, where applicable, lower-cost pre-
25 ferred risk policies under this title for such

1 properties and the contents of such prop-
2 erties;

3 “(v) encourage such owners and rent-
4 ers to maintain or acquire such coverage;

5 “(vi) notify such owners of where to
6 obtain information regarding how to obtain
7 such coverage, including a telephone num-
8 ber, mailing address, and Internet site of
9 the Administrator of the Federal Emer-
10 gency Management Agency (in this para-
11 graph referred to as the ‘Administrator’)
12 where such information is available; and

13 “(vii) educate local real estate agents
14 in communities participating in the na-
15 tional flood insurance program regarding
16 the program and the availability of cov-
17 erage under the program for owners and
18 renters of properties in such communities,
19 and establish coordination and liaisons
20 with such real estate agents to facilitate
21 purchase of coverage under the National
22 Flood Insurance Act of 1968 and increase
23 awareness of flood risk reduction;

24 “(B) in any fiscal year, a local govern-
25 mental agency may not use an amount under

1 this paragraph that exceeds 3 times the amount
2 that the agency certifies, as the Secretary, in
3 consultation with the Administrator, shall re-
4 quire, that the agency will contribute from non-
5 Federal funds to be used with such amounts
6 used under this paragraph only for carrying out
7 activities described in subparagraph (A); and
8 for purposes of this subparagraph, the term
9 ‘non-Federal funds’ includes State or local gov-
10 ernment agency amounts, in-kind contributions,
11 any salary paid to staff to carry out the eligible
12 activities of the local governmental agency in-
13 volved, the value of the time and services con-
14 tributed by volunteers to carry out such services
15 (at a rate determined by the Secretary), and
16 the value of any donated material or building
17 and the value of any lease on a building;

18 “(C) a local governmental agency that uses
19 amounts as provided under this paragraph may
20 coordinate or contract with other agencies and
21 entities having particular capacities, specialties,
22 or experience with respect to certain popu-
23 lations or constituencies, including elderly or
24 disabled families or persons, to carry out activi-

1 ties described in subparagraph (A) with respect
2 to such populations or constituencies; and

3 “(D) each local government agency that
4 uses amounts as provided under this paragraph
5 shall submit a report to the Secretary and the
6 Administrator, not later than 12 months after
7 such amounts are first received, which shall in-
8 clude such information as the Secretary and the
9 Administrator jointly consider appropriate to
10 describe the activities conducted using such
11 amounts and the effect of such activities on the
12 retention or acquisition of flood insurance cov-
13 erage.”.

14 **SEC. 367. TECHNICAL CORRECTIONS.**

15 (a) FLOOD DISASTER PROTECTION ACT OF 1973.—
16 The Flood Disaster Protection Act of 1973 (42 U.S.C.
17 4002 et seq.) is amended—

18 (1) by striking “Director” each place such term
19 appears, except in section 102(f)(3) (42 U.S.C.
20 4012a(f)(3)), and inserting “Administrator”; and

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

1 (b) NATIONAL FLOOD INSURANCE ACT OF 1968.—
2 The National Flood Insurance Act of 1968 (42 U.S.C.
3 4001 et seq.) is amended—

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

6 (2) in section 1363 (42 U.S.C. 4104), by strik-
7 ing “Director’s” each place such term appears and
8 inserting “Administrator’s”.

9 (c) FEDERAL FLOOD INSURANCE ACT OF 1956.—
10 Section 15(e) of the Federal Flood Insurance Act of 1956
11 (42 U.S.C. 2414(e)) is amended by striking “Director”
12 each place such term appears and inserting “Adminis-
13 trator”.

14 **SEC. 368. REQUIRING COMPETITION FOR NATIONAL FLOOD**
15 **INSURANCE PROGRAM POLICIES.**

16 (a) REPORT.—Not later than the expiration of the
17 90-day period beginning upon the date of the enactment
18 of this Act, the Administrator of the Federal Emergency
19 Management Agency, in consultation with insurance com-
20 panies, insurance agents and other organizations with
21 which the Administrator has contracted, shall submit to
22 the Congress a report describing procedures and policies
23 that the Administrator shall implement to limit the per-
24 centage of policies for flood insurance coverage under the
25 national flood insurance program that are directly man-

1 aged by the Agency to not more than 10 percent of the
2 aggregate number of flood insurance policies in force
3 under such program.

4 (b) IMPLEMENTATION.—Upon submission of the re-
5 port under subsection (a) to the Congress, the Adminis-
6 trator shall implement the policies and procedures de-
7 scribed in the report. The Administrator shall, not later
8 than the expiration of the 12-month period beginning
9 upon submission of such report, reduce the number of
10 policies for flood insurance coverage that are directly man-
11 aged by the Agency, or by the Agency’s direct servicing
12 contractor that is not an insurer, to not more than 10
13 percent of the aggregate number of flood insurance poli-
14 cies in force as of the expiration of such 12-month period.

15 (c) CONTINUATION OF CURRENT AGENT RELATION-
16 SHIPS.—In carrying out subsection (b), the Administrator
17 shall ensure that—

18 (1) agents selling or servicing policies described
19 in such subsection are not prevented from con-
20 tinuing to sell or service such policies; and

21 (2) insurance companies are not prevented from
22 waiving any limitation such companies could other-
23 wise enforce to limit any such activity.

1 **SEC. 369. STUDIES OF VOLUNTARY COMMUNITY-BASED**
2 **FLOOD INSURANCE OPTIONS.**

3 (a) STUDIES.—The Administrator of the Federal
4 Emergency Management Agency and the Comptroller
5 General of the United States shall each conduct a separate
6 study to assess options, methods, and strategies for offer-
7 ing voluntary community-based flood insurance policy op-
8 tions and incorporating such options into the national
9 flood insurance program. Such studies shall take into con-
10 sideration and analyze how the policy options would affect
11 communities having varying economic bases, geographic
12 locations, flood hazard characteristics or classifications,
13 and flood management approaches.

14 (b) REPORTS.—Not later than the expiration of the
15 18-month period beginning on the date of the enactment
16 of this Act, the Administrator of the Federal Emergency
17 Management Agency and the Comptroller General of the
18 United States shall each submit a report to the Committee
19 on Financial Services of the House of Representatives and
20 the Committee on Banking, Housing, and Urban Affairs
21 of the Senate on the results and conclusions of the study
22 such agency conducted under subsection (a), and each
23 such report shall include recommendations for the best
24 manner to incorporate voluntary community-based flood
25 insurance options into the national flood insurance pro-
26 gram and for a strategy to implement such options that

1 would encourage communities to undertake flood mitiga-
2 tion activities.

3 **SEC. 370. REPORT ON INCLUSION OF BUILDING CODES IN**
4 **FLOODPLAIN MANAGEMENT CRITERIA.**

5 Not later than the expiration of the 6-month period
6 beginning on the date of the enactment of this Act, the
7 Administrator of the Federal Emergency Management
8 Agency shall conduct a study and submit a report to the
9 Committee on Financial Services of the House of Rep-
10 resentatives and the Committee on Banking, Housing, and
11 Urban Affairs of the Senate regarding the impact, effec-
12 tiveness, and feasibility of amending section 1361 of the
13 National Flood Insurance Act of 1968 (42 U.S.C. 4102)
14 to include widely used and nationally recognized building
15 codes as part of the floodplain management criteria devel-
16 oped under such section, and shall determine—

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

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

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

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

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

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

16 (7) the impact of such a building code require-
17 ment on rural communities with different building
18 code challenges than more urban environments; and

19 (8) the impact of such a building code require-
20 ment on Indian reservations.

21 **SEC. 371. STUDY ON GRADUATED RISK.**

22 (a) **STUDY.**—The National Academy of Sciences shall
23 conduct a study exploring methods for understanding
24 graduated risk behind levees and the associated land de-

1 velopment, insurance, and risk communication dimensions,
2 which shall—

3 (1) research, review, and recommend current
4 best practices for estimating direct annualized flood
5 losses behind levees for residential and commercial
6 structures;

7 (2) rank such practices based on their best
8 value, balancing cost, scientific integrity, and the in-
9 herent uncertainties associated with all aspects of
10 the loss estimate, including geotechnical engineering,
11 flood frequency estimates, economic value, and direct
12 damages;

13 (3) research, review, and identify current best
14 floodplain management and land use practices be-
15 hind levees that effectively balance social, economic,
16 and environmental considerations as part of an over-
17 all flood risk management strategy;

18 (4) identify examples where such practices have
19 proven effective and recommend methods and proc-
20 esses by which they could be applied more broadly
21 across the United States, given the variety of dif-
22 ferent flood risks, State and local legal frameworks,
23 and evolving judicial opinions;

24 (5) research, review, and identify a variety of
25 flood insurance pricing options for flood hazards be-

1 hind levees which are actuarially sound and based on
2 the flood risk data developed using the top three
3 best value approaches identified pursuant to para-
4 graph (1);

5 (6) evaluate and recommend methods to reduce
6 insurance costs through creative arrangements be-
7 tween insureds and insurers while keeping a clear
8 accounting of how much financial risk is being borne
9 by various parties such that the entire risk is ac-
10 counted for, including establishment of explicit limits
11 on disaster aid or other assistance in the event of a
12 flood; and

13 (7) taking into consideration the recommenda-
14 tions pursuant to paragraphs (1) through (3), rec-
15 ommend approaches to communicating the associ-
16 ated risks to community officials, homeowners, and
17 other residents.

18 (b) REPORT.—Not later than the expiration of the
19 12-month period beginning on the date of the enactment
20 of this Act, the National Academy of Sciences shall submit
21 a report to the Committees on Financial Services and
22 Science, Space, and Technology of the House of Rep-
23 resentatives and the Committees on Banking, Housing,
24 and Urban Affairs and Commerce, Science and Transpor-
25 tation of the Senate on the study under subsection (a) in-

1 cluding the information and recommendations required
2 under such subsection.

3 **SEC. 372. REPORT ON FLOOD-IN-PROGRESS DETERMINA-**
4 **TION.**

5 The Administrator of the Federal Emergency Man-
6 agement Agency shall review the processes and procedures
7 for determining that a flood event has commenced or is
8 in progress for purposes of flood insurance coverage made
9 available under the national flood insurance program
10 under the National Flood Insurance Act of 1968 and for
11 providing public notification that such an event has com-
12 menced or is in progress. In such review, the Adminis-
13 trator shall take into consideration the effects and implica-
14 tions that weather conditions, such as rainfall, snowfall,
15 projected snowmelt, existing water levels, and other condi-
16 tions have on the determination that a flood event has
17 commenced or is in progress. Not later than the expiration
18 of the 6-month period beginning upon the date of the en-
19 actment of this Act, the Administrator shall submit a re-
20 port to the Congress setting forth the results and conclu-
21 sions of the review undertaken pursuant to this section
22 and any actions undertaken or proposed actions to be
23 taken to provide for a more precise and technical deter-
24 mination that a flooding event has commenced or is in
25 progress.

1 **SEC. 373. STUDY ON REPAYING FLOOD INSURANCE DEBT.**

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

11 **SEC. 374. NO CAUSE OF ACTION.**

12 No cause of action shall exist and no claim may be
13 brought against the United States for violation of any no-
14 tification requirement imposed upon the United States by
15 this subtitle or any amendment made by this subtitle.

16 **SEC. 375. AUTHORITY FOR THE CORPS OF ENGINEERS TO**
17 **PROVIDE SPECIALIZED OR TECHNICAL SERV-**
18 **ICES.**

19 (a) IN GENERAL.—Notwithstanding any other provi-
20 sion of law, upon the request of a State or local govern-
21 ment, the Secretary of the Army may evaluate a levee sys-
22 tem that was designed or constructed by the Secretary for
23 the purposes of the National Flood Insurance Program es-
24 tablished under chapter 1 of the National Flood Insurance
25 Act of 1968 (42 U.S.C. 4011 et seq.).

1 (b) REQUIREMENTS.—A levee system evaluation
2 under subsection (a) shall—

3 (1) comply with applicable regulations related
4 to areas protected by a levee system;

5 (2) be carried out in accordance with such pro-
6 cedures as the Secretary, in consultation with the
7 Administrator of the Federal Emergency Manage-
8 ment Agency, may establish; and

9 (3) be carried out only if the State or local gov-
10 ernment agrees to reimburse the Secretary for all
11 cost associated with the performance of the activi-
12 ties.

13 **Subtitle E—Repeal of the Office of** 14 **Financial Research**

15 **SEC. 381. REPEAL OF THE OFFICE OF FINANCIAL RE-** 16 **SEARCH.**

17 (a) IN GENERAL.—Subtitle B of title I of the Dodd-
18 Frank Wall Street Reform and Consumer Protection Act
19 is hereby repealed.

20 (b) CONFORMING AMENDMENTS TO THE DODD-
21 FRANK ACT.—The Dodd-Frank Wall Street Reform and
22 Consumer Protection Act is amended—

23 (1) in section 102(a), by striking paragraph
24 (5);

25 (2) in section 111—

- 1 (A) in subsection (b)(2)—
- 2 (i) by striking subparagraph (A); and
- 3 (ii) by redesignating subparagraphs
- 4 (B), (C), (D), and (E) as subparagraphs
- 5 (A), (B), (C), and (D), respectively;
- 6 (B) in subsection (c)(1), by striking “sub-
- 7 paragraphs (C), (D), and (E)” and inserting
- 8 “subparagraphs (B), (C), and (D)”;
- 9 (3) in section 112—
- 10 (A) in subsection (a)(2)—
- 11 (i) in subparagraph (A), by striking
- 12 “direct the Office of Financial Research
- 13 to”;
- 14 (ii) by striking subparagraph (B); and
- 15 (iii) by redesignating subparagraphs
- 16 (C), (D), (E), (F), (G), (H), (I), (J), (K),
- 17 (L), (M), and (N) as subparagraphs (B),
- 18 (C), (D), (E), (F), (G), (H), (I), (J), (K),
- 19 (L), and (M), respectively; and
- 20 (B) in subsection (d)—
- 21 (i) in paragraph (1), by striking “the
- 22 Office of Financial Research, member
- 23 agencies, and” and inserting “member
- 24 agencies and”;

1 (ii) in paragraph (2), by striking “the
2 Office of Financial Research, any member
3 agency, and” and inserting “any member
4 agency and”;

5 (iii) in paragraph (3)—

6 (I) by striking “, acting through
7 the Office of Financial Research,”
8 each place it appears; and

9 (II) in subparagraph (B), by
10 striking “the Office of Financial Re-
11 search or”; and

12 (iv) in paragraph (5)(A), by striking
13 “, the Office of Financial Research,”;

14 (4) in section 116, by striking “, acting through
15 the Office of Financial Research,” each place it ap-
16 pears; and

17 (5) by striking section 118.

18 (c) CONFORMING AMENDMENT TO THE PAPERWORK
19 REDUCTION ACT.—Effective as of the date specified in
20 section 1100H of the Dodd-Frank Wall Street Reform and
21 Consumer Protection Act, section 1100D(a) of such Act
22 is amended to read as follows:

23 “(a) DESIGNATION AS AN INDEPENDENT AGENCY.—
24 Section 3502(5) of subchapter I of chapter 35 of title 44,
25 United States Code (commonly known as the Paperwork

1 Reduction Act) is amended by inserting ‘the Bureau of
2 Consumer Financial Protection,’ after ‘the Securities and
3 Exchange Commission,’.”

4 (d) TECHNICAL AMENDMENTS.—The table of con-
5 tents for the Dodd-Frank Wall Street Reform and Con-
6 sumer Protection Act is amended—

7 (1) by striking the item relating to section 118;

8 and

9 (2) by striking the items relating to subtitle B
10 of title I.

11 **TITLE IV—COMMITTEE ON THE** 12 **JUDICIARY**

13 **SEC. 401. SHORT TITLE.**

14 This title may be cited as the “Help Efficient, Acces-
15 sible, Low-cost, Timely Healthcare (HEALTH) Act of
16 2011”.

17 **SEC. 402. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

18 The time for the commencement of a health care law-
19 suit shall be 3 years after the date of manifestation of
20 injury or 1 year after the claimant discovers, or through
21 the use of reasonable diligence should have discovered, the
22 injury, whichever occurs first. In no event shall the time
23 for commencement of a health care lawsuit exceed 3 years
24 after the date of manifestation of injury unless tolled for
25 any of the following—

- 1 (1) upon proof of fraud;
- 2 (2) intentional concealment; or
- 3 (3) the presence of a foreign body, which has no
- 4 therapeutic or diagnostic purpose or effect, in the
- 5 person of the injured person.

6 Actions by a minor shall be commenced within 3 years
7 from the date of the alleged manifestation of injury except
8 that actions by a minor under the full age of 6 years shall
9 be commenced within 3 years of manifestation of injury
10 or prior to the minor's 8th birthday, whichever provides
11 a longer period. Such time limitation shall be tolled for
12 minors for any period during which a parent or guardian
13 and a health care provider or health care organization
14 have committed fraud or collusion in the failure to bring
15 an action on behalf of the injured minor.

16 **SEC. 403. COMPENSATING PATIENT INJURY.**

17 (a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL
18 ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any
19 health care lawsuit, nothing in this title shall limit a claim-
20 ant's recovery of the full amount of the available economic
21 damages, notwithstanding the limitation in subsection (b).

22 (b) ADDITIONAL NONECONOMIC DAMAGES.—In any
23 health care lawsuit, the amount of noneconomic damages,
24 if available, may be as much as \$250,000, regardless of
25 the number of parties against whom the action is brought

1 or the number of separate claims or actions brought with
2 respect to the same injury.

3 (c) NO DISCOUNT OF AWARD FOR NONECONOMIC
4 DAMAGES.—For purposes of applying the limitation in
5 subsection (b), future noneconomic damages shall not be
6 discounted to present value. The jury shall not be in-
7 formed about the maximum award for noneconomic dam-
8 ages. An award for noneconomic damages in excess of
9 \$250,000 shall be reduced either before the entry of judg-
10 ment, or by amendment of the judgment after entry of
11 judgment, and such reduction shall be made before ac-
12 counting for any other reduction in damages required by
13 law. If separate awards are rendered for past and future
14 noneconomic damages and the combined awards exceed
15 \$250,000, the future noneconomic damages shall be re-
16 duced first.

17 (d) FAIR SHARE RULE.—In any health care lawsuit,
18 each party shall be liable for that party's several share
19 of any damages only and not for the share of any other
20 person. Each party shall be liable only for the amount of
21 damages allocated to such party in direct proportion to
22 such party's percentage of responsibility. Whenever a
23 judgment of liability is rendered as to any party, a sepa-
24 rate judgment shall be rendered against each such party
25 for the amount allocated to such party. For purposes of

1 this section, the trier of fact shall determine the propor-
2 tion of responsibility of each party for the claimant's
3 harm.

4 **SEC. 404. MAXIMIZING PATIENT RECOVERY.**

5 (a) COURT SUPERVISION OF SHARE OF DAMAGES
6 ACTUALLY PAID TO CLAIMANTS.—In any health care law-
7 suit, the court shall supervise the arrangements for pay-
8 ment of damages to protect against conflicts of interest
9 that may have the effect of reducing the amount of dam-
10 ages awarded that are actually paid to claimants. In par-
11 ticular, in any health care lawsuit in which the attorney
12 for a party claims a financial stake in the outcome by vir-
13 tue of a contingent fee, the court shall have the power
14 to restrict the payment of a claimant's damage recovery
15 to such attorney, and to redirect such damages to the
16 claimant based upon the interests of justice and principles
17 of equity. In no event shall the total of all contingent fees
18 for representing all claimants in a health care lawsuit ex-
19 ceed the following limits:

20 (1) Forty percent of the first \$50,000 recovered
21 by the claimant(s).

22 (2) Thirty-three and one-third percent of the
23 next \$50,000 recovered by the claimant(s).

24 (3) Twenty-five percent of the next \$500,000
25 recovered by the claimant(s).

1 (4) Fifteen percent of any amount by which the
2 recovery by the claimant(s) is in excess of \$600,000.

3 (b) **APPLICABILITY.**—The limitations in this section
4 shall apply whether the recovery is by judgment, settle-
5 ment, mediation, arbitration, or any other form of alter-
6 native dispute resolution. In a health care lawsuit involv-
7 ing a minor or incompetent person, a court retains the
8 authority to authorize or approve a fee that is less than
9 the maximum permitted under this section. The require-
10 ment for court supervision in the first two sentences of
11 subsection (a) applies only in civil actions.

12 **SEC. 405. PUNITIVE DAMAGES.**

13 (a) **IN GENERAL.**—Punitive damages may, if other-
14 wise permitted by applicable State or Federal law, be
15 awarded against any person in a health care lawsuit only
16 if it is proven by clear and convincing evidence that such
17 person acted with malicious intent to injure the claimant,
18 or that such person deliberately failed to avoid unneces-
19 sary injury that such person knew the claimant was sub-
20 stantially certain to suffer. In any health care lawsuit
21 where no judgment for compensatory damages is rendered
22 against such person, no punitive damages may be awarded
23 with respect to the claim in such lawsuit. No demand for
24 punitive damages shall be included in a health care lawsuit
25 as initially filed. A court may allow a claimant to file an

1 amended pleading for punitive damages only upon a mo-
2 tion by the claimant and after a finding by the court, upon
3 review of supporting and opposing affidavits or after a
4 hearing, after weighing the evidence, that the claimant has
5 established by a substantial probability that the claimant
6 will prevail on the claim for punitive damages. At the re-
7 quest of any party in a health care lawsuit, the trier of
8 fact shall consider in a separate proceeding—

9 (1) whether punitive damages are to be award-
10 ed and the amount of such award; and

11 (2) the amount of punitive damages following a
12 determination of punitive liability.

13 If a separate proceeding is requested, evidence relevant
14 only to the claim for punitive damages, as determined by
15 applicable State law, shall be inadmissible in any pro-
16 ceeding to determine whether compensatory damages are
17 to be awarded.

18 (b) DETERMINING AMOUNT OF PUNITIVE DAM-
19 AGES.—

20 (1) FACTORS CONSIDERED.—In determining
21 the amount of punitive damages, if awarded, in a
22 health care lawsuit, the trier of fact shall consider
23 only the following—

24 (A) the severity of the harm caused by the
25 conduct of such party;

1 (B) the duration of the conduct or any
2 concealment of it by such party;

3 (C) the profitability of the conduct to such
4 party;

5 (D) the number of products sold or med-
6 ical procedures rendered for compensation, as
7 the case may be, by such party, of the kind
8 causing the harm complained of by the claim-
9 ant;

10 (E) any criminal penalties imposed on such
11 party, as a result of the conduct complained of
12 by the claimant; and

13 (F) the amount of any civil fines assessed
14 against such party as a result of the conduct
15 complained of by the claimant.

16 (2) MAXIMUM AWARD.—The amount of punitive
17 damages, if awarded, in a health care lawsuit may
18 be as much as \$250,000 or as much as two times
19 the amount of economic damages awarded, which-
20 ever is greater. The jury shall not be informed of
21 this limitation.

22 (c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT
23 COMPLY WITH FDA STANDARDS.—

24 (1) IN GENERAL.—

1 (A) No punitive damages may be awarded
2 against the manufacturer or distributor of a
3 medical product, or a supplier of any compo-
4 nent or raw material of such medical product,
5 based on a claim that such product caused the
6 claimant's harm where—

7 (i)(I) such medical product was sub-
8 ject to premarket approval, clearance, or li-
9 censure by the Food and Drug Administra-
10 tion with respect to the safety of the for-
11 mulation or performance of the aspect of
12 such medical product which caused the
13 claimant's harm or the adequacy of the
14 packaging or labeling of such medical
15 product; and

16 (II) such medical product was so ap-
17 proved, cleared, or licensed; or

18 (ii) such medical product is generally
19 recognized among qualified experts as safe
20 and effective pursuant to conditions estab-
21 lished by the Food and Drug Administra-
22 tion and applicable Food and Drug Admin-
23 istration regulations, including without
24 limitation those related to packaging and
25 labeling, unless the Food and Drug Admin-

1 istration has determined that such medical
2 product was not manufactured or distrib-
3 uted in substantial compliance with appli-
4 cable Food and Drug Administration stat-
5 utes and regulations.

6 (B) RULE OF CONSTRUCTION.—Subpara-
7 graph (A) may not be construed as establishing
8 the obligation of the Food and Drug Adminis-
9 tration to demonstrate affirmatively that a
10 manufacturer, distributor, or supplier referred
11 to in such subparagraph meets any of the con-
12 ditions described in such subparagraph.

13 (2) LIABILITY OF HEALTH CARE PROVIDERS.—
14 A health care provider who prescribes, or who dis-
15 penses pursuant to a prescription, a medical product
16 approved, licensed, or cleared by the Food and Drug
17 Administration shall not be named as a party to a
18 product liability lawsuit involving such product and
19 shall not be liable to a claimant in a class action
20 lawsuit against the manufacturer, distributor, or
21 seller of such product. Nothing in this paragraph
22 prevents a court from consolidating cases involving
23 health care providers and cases involving products li-
24 ability claims against the manufacturer, distributor,
25 or product seller of such medical product.

1 (3) PACKAGING.—In a health care lawsuit for
2 harm which is alleged to relate to the adequacy of
3 the packaging or labeling of a drug which is required
4 to have tamper-resistant packaging under regula-
5 tions of the Secretary of Health and Human Serv-
6 ices (including labeling regulations related to such
7 packaging), the manufacturer or product seller of
8 the drug shall not be held liable for punitive dam-
9 ages unless such packaging or labeling is found by
10 the trier of fact by clear and convincing evidence to
11 be substantially out of compliance with such regula-
12 tions.

13 (4) EXCEPTION.—Paragraph (1) shall not
14 apply in any health care lawsuit in which—

15 (A) a person, before or after premarket ap-
16 proval, clearance, or licensure of such medical
17 product, knowingly misrepresented to or with-
18 held from the Food and Drug Administration
19 information that is required to be submitted
20 under the Federal Food, Drug, and Cosmetic
21 Act (21 U.S.C. 301 et seq.) or section 351 of
22 the Public Health Service Act (42 U.S.C. 262)
23 that is material and is causally related to the
24 harm which the claimant allegedly suffered

1 (B) a person made an illegal payment to
2 an official of the Food and Drug Administra-
3 tion for the purpose of either securing or main-
4 taining approval, clearance, or licensure of such
5 medical product; or

6 (C) the defendant caused the medical prod-
7 uct which caused the claimant's harm to be
8 misbranded or adulterated (as such terms are
9 used in chapter V of the Federal Food, Drug,
10 and Cosmetic Act (21 U.S.C. 351 et seq.)).

11 **SEC. 406. AUTHORIZATION OF PAYMENT OF FUTURE DAM-**
12 **AGES TO CLAIMANTS IN HEALTH CARE LAW-**
13 **SUITS.**

14 (a) IN GENERAL.—In any health care lawsuit, if an
15 award of future damages, without reduction to present
16 value, equaling or exceeding \$50,000 is made against a
17 party with sufficient insurance or other assets to fund a
18 periodic payment of such a judgment, the court shall, at
19 the request of any party, enter a judgment ordering that
20 the future damages be paid by periodic payments, in ac-
21 cordance with the Uniform Periodic Payment of Judg-
22 ments Act promulgated by the National Conference of
23 Commissioners on Uniform State Laws.

1 (b) APPLICABILITY.—This section applies to all ac-
2 tions which have not been first set for trial or retrial be-
3 fore the effective date of this title.

4 **SEC. 407. DEFINITIONS.**

5 In this title:

6 (1) ALTERNATIVE DISPUTE RESOLUTION SYS-
7 TEM; ADR.—The term “alternative dispute resolution
8 system” or “ADR” means a system that provides
9 for the resolution of health care lawsuits in a man-
10 ner other than through a civil action brought in a
11 State or Federal court.

12 (2) CLAIMANT.—The term “claimant” means
13 any person who brings a health care lawsuit, includ-
14 ing a person who asserts or claims a right to legal
15 or equitable contribution, indemnity, or subrogation,
16 arising out of a health care liability claim or action,
17 and any person on whose behalf such a claim is as-
18 serted or such an action is brought, whether de-
19 ceased, incompetent, or a minor.

20 (3) COMPENSATORY DAMAGES.—The term
21 “compensatory damages” means objectively
22 verifiable monetary losses incurred as a result of the
23 provision of, use of, or payment for (or failure to
24 provide, use, or pay for) health care services or med-
25 ical products, such as past and future medical ex-

1 penses, loss of past and future earnings, cost of ob-
2 taining domestic services, loss of employment, and
3 loss of business or employment opportunities, dam-
4 ages for physical and emotional pain, suffering, in-
5 convenience, physical impairment, mental anguish,
6 disfigurement, loss of enjoyment of life, loss of soci-
7 ety and companionship, loss of consortium (other
8 than loss of domestic service), hedonic damages, in-
9 jury to reputation, and all other nonpecuniary losses
10 of any kind or nature. The term “compensatory
11 damages” includes economic damages and non-
12 economic damages, as such terms are defined in this
13 section.

14 (4) CONTINGENT FEE.—The term “contingent
15 fee” includes all compensation to any person or per-
16 sons which is payable only if a recovery is effected
17 on behalf of one or more claimants.

18 (5) ECONOMIC DAMAGES.—The term “economic
19 damages” means objectively verifiable monetary
20 losses incurred as a result of the provision of, use
21 of, or payment for (or failure to provide, use, or pay
22 for) health care services or medical products, such as
23 past and future medical expenses, loss of past and
24 future earnings, cost of obtaining domestic services,

1 loss of employment, and loss of business or employ-
2 ment opportunities.

3 (6) HEALTH CARE LAWSUIT.—The term
4 “health care lawsuit” means any health care liability
5 claim concerning the provision of health care goods
6 or services or any medical product affecting inter-
7 state commerce, or any health care liability action
8 concerning the provision of health care goods or
9 services or any medical product affecting interstate
10 commerce, brought in a State or Federal court or
11 pursuant to an alternative dispute resolution system,
12 against a health care provider, a health care organi-
13 zation, or the manufacturer, distributor, supplier,
14 marketer, promoter, or seller of a medical product,
15 regardless of the theory of liability on which the
16 claim is based, or the number of claimants, plain-
17 tiffs, defendants, or other parties, or the number of
18 claims or causes of action, in which the claimant al-
19 leges a health care liability claim. Such term does
20 not include a claim or action which is based on
21 criminal liability; which seeks civil fines or penalties
22 paid to Federal, State, or local government; or which
23 is grounded in antitrust.

24 (7) HEALTH CARE LIABILITY ACTION.—The
25 term “health care liability action” means a civil ac-

1 tion brought in a State or Federal court or pursuant
2 to an alternative dispute resolution system, against
3 a health care provider, a health care organization, or
4 the manufacturer, distributor, supplier, marketer,
5 promoter, or seller of a medical product, regardless
6 of the theory of liability on which the claim is based,
7 or the number of plaintiffs, defendants, or other par-
8 ties, or the number of causes of action, in which the
9 claimant alleges a health care liability claim.

10 (8) HEALTH CARE LIABILITY CLAIM.—The
11 term “health care liability claim” means a demand
12 by any person, whether or not pursuant to ADR,
13 against a health care provider, health care organiza-
14 tion, or the manufacturer, distributor, supplier, mar-
15 keter, promoter, or seller of a medical product, in-
16 cluding, but not limited to, third-party claims, cross-
17 claims, counter-claims, or contribution claims, which
18 are based upon the provision of, use of, or payment
19 for (or the failure to provide, use, or pay for) health
20 care services or medical products, regardless of the
21 theory of liability on which the claim is based, or the
22 number of plaintiffs, defendants, or other parties, or
23 the number of causes of action.

24 (9) HEALTH CARE ORGANIZATION.—The term
25 “health care organization” means any person or en-

1 tity which is obligated to provide or pay for health
2 benefits under any health plan, including any person
3 or entity acting under a contract or arrangement
4 with a health care organization to provide or admin-
5 ister any health benefit.

6 (10) HEALTH CARE PROVIDER.—The term
7 “health care provider” means any person or entity
8 required by State or Federal laws or regulations to
9 be licensed, registered, or certified to provide health
10 care services, and being either so licensed, reg-
11 istered, or certified, or exempted from such require-
12 ment by other statute or regulation.

13 (11) HEALTH CARE GOODS OR SERVICES.—The
14 term “health care goods or services” means any
15 goods or services provided by a health care organiza-
16 tion, provider, or by any individual working under
17 the supervision of a health care provider, that relates
18 to the diagnosis, prevention, or treatment of any
19 human disease or impairment, or the assessment or
20 care of the health of human beings.

21 (12) MALICIOUS INTENT TO INJURE.—The
22 term “malicious intent to injure” means inten-
23 tionally causing or attempting to cause physical in-
24 jury other than providing health care goods or serv-
25 ices.

1 (13) MEDICAL PRODUCT.—The term “medical
2 product” means a drug, device, or biological product
3 intended for humans, and the terms “drug”, “de-
4 vice”, and “biological product” have the meanings
5 given such terms in sections 201(g)(1) and 201(h)
6 of the Federal Food, Drug and Cosmetic Act (21
7 U.S.C. 321(g)(1) and (h)) and section 351(a) of the
8 Public Health Service Act (42 U.S.C. 262(a)), re-
9 spectively, including any component or raw material
10 used therein, but excluding health care services.

11 (14) NONECONOMIC DAMAGES.—The term
12 “noneconomic damages” means damages for phys-
13 ical and emotional pain, suffering, inconvenience,
14 physical impairment, mental anguish, disfigurement,
15 loss of enjoyment of life, loss of society and compan-
16 ionship, loss of consortium (other than loss of do-
17 mestic service), hedonic damages, injury to reputa-
18 tion, and all other nonpecuniary losses of any kind
19 or nature.

20 (15) PUNITIVE DAMAGES.—The term “punitive
21 damages” means damages awarded, for the purpose
22 of punishment or deterrence, and not solely for com-
23 pensatory purposes, against a health care provider,
24 health care organization, or a manufacturer, dis-
25 tributor, or supplier of a medical product. Punitive

1 damages are neither economic nor noneconomic
2 damages.

3 (16) RECOVERY.—The term “recovery” means
4 the net sum recovered after deducting any disburse-
5 ments or costs incurred in connection with prosecu-
6 tion or settlement of the claim, including all costs
7 paid or advanced by any person. Costs of health care
8 incurred by the plaintiff and the attorneys’ office
9 overhead costs or charges for legal services are not
10 deductible disbursements or costs for such purpose.

11 (17) STATE.—The term “State” means each of
12 the several States, the District of Columbia, the
13 Commonwealth of Puerto Rico, the Virgin Islands,
14 Guam, American Samoa, the Northern Mariana Is-
15 lands, the Trust Territory of the Pacific Islands, and
16 any other territory or possession of the United
17 States, or any political subdivision thereof.

18 **SEC. 408. EFFECT ON OTHER LAWS.**

19 (a) VACCINE INJURY.—

20 (1) To the extent that title XXI of the Public
21 Health Service Act establishes a Federal rule of law
22 applicable to a civil action brought for a vaccine-re-
23 lated injury or death—

24 (A) this title does not affect the application
25 of the rule of law to such an action; and

1 (B) any rule of law prescribed by this title
2 in conflict with a rule of law of such title XXI
3 shall not apply to such action.

4 (2) If there is an aspect of a civil action
5 brought for a vaccine-related injury or death to
6 which a Federal rule of law under title XXI of the
7 Public Health Service Act does not apply, then this
8 title or otherwise applicable law (as determined
9 under this title) will apply to such aspect of such ac-
10 tion.

11 (b) OTHER FEDERAL LAW.—Except as provided in
12 this section, nothing in this title shall be deemed to affect
13 any defense available to a defendant in a health care law-
14 suit or action under any other provision of Federal law.

15 **SEC. 409. STATE FLEXIBILITY AND PROTECTION OF**
16 **STATES' RIGHTS.**

17 (a) HEALTH CARE LAWSUITS.—The provisions gov-
18 erning health care lawsuits set forth in this title preempt,
19 subject to subsections (b) and (c), State law to the extent
20 that State law prevents the application of any provisions
21 of law established by or under this title. The provisions
22 governing health care lawsuits set forth in this title super-
23 sede chapter 171 of title 28, United States Code, to the
24 extent that such chapter—

1 (1) provides for a greater amount of damages
2 or contingent fees, a longer period in which a health
3 care lawsuit may be commenced, or a reduced appli-
4 cability or scope of periodic payment of future dam-
5 ages, than provided in this title; or

6 (2) prohibits the introduction of evidence re-
7 garding collateral source benefits, or mandates or
8 permits subrogation or a lien on collateral source
9 benefits.

10 (b) PROTECTION OF STATES' RIGHTS AND OTHER
11 LAWS.—(1) Any issue that is not governed by any provi-
12 sion of law established by or under this title (including
13 State standards of negligence) shall be governed by other-
14 wise applicable State or Federal law.

15 (2) This title shall not preempt or supersede any
16 State or Federal law that imposes greater procedural or
17 substantive protections for health care providers and
18 health care organizations from liability, loss, or damages
19 than those provided by this title or create a cause of ac-
20 tion.

21 (c) STATE FLEXIBILITY.—No provision of this title
22 shall be construed to preempt—

23 (1) any State law (whether effective before, on,
24 or after the date of the enactment of this Act) that
25 specifies a particular monetary amount of compen-

1 satory or punitive damages (or the total amount of
2 damages) that may be awarded in a health care law-
3 suit, regardless of whether such monetary amount is
4 greater or lesser than is provided for under this title,
5 notwithstanding section 303(a); or

6 (2) any defense available to a party in a health
7 care lawsuit under any other provision of State or
8 Federal law.

9 **SEC. 410. APPLICABILITY; EFFECTIVE DATE.**

10 This title shall apply to any health care lawsuit
11 brought in a Federal or State court, or subject to an alter-
12 native dispute resolution system, that is initiated on or
13 after the date of the enactment of this Act, except that
14 any health care lawsuit arising from an injury occurring
15 prior to the date of the enactment of this Act shall be
16 governed by the applicable statute of limitations provisions
17 in effect at the time the injury occurred.

18 **TITLE V—COMMITTEE ON OVER-**
19 **SIGHT AND GOVERNMENT RE-**
20 **FORM**

21 **SEC. 501. RETIREMENT CONTRIBUTIONS.**

22 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

23 (1) INDIVIDUAL CONTRIBUTIONS.—Section
24 8334(c) of title 5, United States Code, is amended—

1 (A) by striking “(c) Each” and inserting
2 “(c)(1) Each”; and

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

4 “(2) Notwithstanding any other provision of this sub-
5 section, the applicable percentage of basic pay under this
6 subsection shall—

7 “(A) except as provided in subparagraph (B) or
8 (C), for purposes of computing an amount—

9 “(i) for a period in calendar year 2013, be
10 equal to the applicable percentage under this
11 subsection for calendar year 2012, plus an ad-
12 ditional 1.5 percentage points;

13 “(ii) for a period in calendar year 2014, be
14 equal to the applicable percentage under this
15 subsection for calendar year 2013 (as deter-
16 mined under clause (i)), plus an additional 0.5
17 percentage point;

18 “(iii) for a period in calendar year 2015,
19 2016, or 2017, be equal to the applicable per-
20 centage under this subsection for the preceding
21 calendar year (as determined under clause (ii)
22 or this clause, as the case may be), plus an ad-
23 ditional 1.0 percentage point; and

24 “(iv) for a period in any calendar year
25 after 2017, be equal to the applicable percent-

1 age under this subsection for calendar year
2 2017 (as determined under clause (iii));

3 “(B) for purposes of computing an amount with
4 respect to a Member for Member service—

5 “(i) for a period in calendar year 2013, be
6 equal to the applicable percentage under this
7 subsection for calendar year 2012, plus an ad-
8 ditional 2.5 percentage points;

9 “(ii) for a period in calendar year 2014,
10 2015, 2016, or 2017, be equal to the applicable
11 percentage under this subsection for the pre-
12 ceding calendar year (as determined under
13 clause (i) or this clause, as the case may be),
14 plus an additional 1.5 percentage points; and

15 “(iii) for a period in any calendar year
16 after 2017, be equal to the applicable percent-
17 age under this subsection for calendar year
18 2017 (as determined under clause (ii)); and

19 “(C) for purposes of computing an amount with
20 respect to a Member or employee for Congressional
21 employee service—

22 “(i) for a period in calendar year 2013, be
23 equal to the applicable percentage under this
24 subsection for calendar year 2012, plus an ad-
25 ditional 2.5 percentage points;

1 “(ii) for a period in calendar year 2014,
2 2015, 2016, or 2017, be equal to the applicable
3 percentage under this subsection for the pre-
4 ceding calendar year (as determined under
5 clause (i) or this clause, as the case may be),
6 plus an additional 1.5 percentage points; and

7 “(iii) for a period in any calendar year
8 after 2017, be equal to the applicable percent-
9 age under this subsection for calendar year
10 2017 (as determined under clause (ii)).

11 “(3)(A) Notwithstanding subsection (a)(2), any ex-
12 cess contributions under subsection (a)(1)(A) (including
13 the portion of any deposit under this subsection allocable
14 to excess contributions) shall, if made by an employee of
15 the United States Postal Service or the Postal Regulatory
16 Commission, be deposited to the credit of the Postal Serv-
17 ice Fund under section 2003 of title 39, rather than the
18 Civil Service Retirement and Disability Fund.

19 “(B) For purposes of this paragraph, the term ‘ex-
20 cess contributions’, as used with respect to contributions
21 made under subsection (a)(1)(A) by an employee of the
22 United States Postal Service or the Postal Regulatory
23 Commission, means the amount by which—

24 “(i) deductions from basic pay of such employee
25 which are made under subsection (a)(1)(A), exceed

1 “(ii) deductions from basic pay of such em-
2 ployee which would have been so made if paragraph
3 (2) had not been enacted.”.

4 (2) GOVERNMENT CONTRIBUTIONS.—Section
5 8334(a)(1)(B) of title 5, United States Code, is
6 amended—

7 (A) in clause (i), by striking “Except as
8 provided in clause (ii),” and inserting “Except
9 as provided in clause (ii) or (iii),”; and

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

11 “(iii) The amount to be contributed under clause (i)
12 shall, with respect to a period in any year beginning after
13 December 31, 2012, be equal to—

14 “(I) the amount which would otherwise apply
15 under clause (i) with respect to such period, reduced
16 by

17 “(II) the amount by which, with respect to such
18 period, the withholding under subparagraph (A) ex-
19 ceeds the amount which would otherwise have been
20 withheld from the basic pay of the employee or elect-
21 ed official involved under subparagraph (A) based on
22 the percentage applicable under subsection (c) for
23 calendar year 2012.”.

24 (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—

1 (1) INDIVIDUAL CONTRIBUTIONS.—Section
2 8422(a)(3) of title 5, United States Code, is amend-
3 ed—

4 (A) by redesignating subparagraph (B) as
5 subparagraph (C);

6 (B) by inserting after subparagraph (A)
7 the following:

8 “(B) Notwithstanding any other provision of this
9 paragraph, the applicable percentage under this para-
10 graph for civilian service by employees or Members other
11 than revised annuity employees shall—

12 “(i) except as provided in clause (ii) or (iii), for
13 purposes of computing an amount—

14 “(I) for a period in calendar year 2013, be
15 equal to the applicable percentage under this
16 paragraph for calendar year 2012, plus an ad-
17 ditional 1.5 percentage points;

18 “(II) for a period in calendar year 2014,
19 be equal to the applicable percentage under this
20 paragraph for calendar year 2013 (as deter-
21 mined under subclause (I)), plus an additional
22 0.5 percentage point;

23 “(III) for a period in calendar year 2015,
24 2016, or 2017, be equal to the applicable per-
25 centage under this paragraph for the preceding

1 calendar year (as determined under subclause
2 (II) or this subclause, as the case may be), plus
3 an additional 1.0 percentage point; and

4 “(IV) for a period in any calendar year
5 after 2017, be equal to the applicable percent-
6 age under this paragraph for calendar year
7 2017 (as determined under subclause (III));

8 “(ii) for purposes of computing an amount with
9 respect to a Member—

10 “(I) for a period in calendar year 2013, be
11 equal to the applicable percentage under this
12 paragraph for calendar year 2012, plus an ad-
13 ditional 2.5 percentage points;

14 “(II) for a period in calendar year 2014,
15 2015, 2016, or 2017, be equal to the applicable
16 percentage under this paragraph for the pre-
17 ceding calendar year (as determined under sub-
18 clause (I) or this subclause, as the case may
19 be), plus an additional 1.5 percentage points;
20 and

21 “(III) for a period in any calendar year
22 after 2017, be equal to the applicable percent-
23 age under this paragraph for calendar year
24 2017 (as determined under subclause (II)); and

1 “(iii) for purposes of computing an amount
2 with respect to a Congressional employee—

3 “(I) for a period in calendar year 2013,
4 2014, 2015, 2016, or 2017, be equal to the ap-
5 plicable percentage under this paragraph for
6 the preceding calendar year (including as in-
7 creased under this subclause, if applicable), plus
8 an additional 1.5 percentage points; and

9 “(II) for a period in any calendar year
10 after 2017, be equal to the applicable percent-
11 age under this paragraph for calendar year
12 2017 (as determined under subclause (I)).”;
13 and

14 (C) in subparagraph (C) (as so redesign-
15 ated by subparagraph (A))—

16 (i) by striking “9.3” each place it ap-
17 pears and inserting “12”; and

18 (ii) by striking “9.8” each place it ap-
19 pears and inserting “12.5”.

20 (2) GOVERNMENT CONTRIBUTIONS.—Section
21 8423(a)(2) of title 5, United States Code, is amend-
22 ed—

23 (A) by striking “(2)” and inserting
24 “(2)(A)”; and

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

1 “(B)(i) Subject to clauses (ii) and (iii), for purposes
2 of any period in any year beginning after December 31,
3 2012, the normal-cost percentage under this subsection
4 shall be determined and applied as if section 501(b)(1)
5 of the Sequester Replacement Reconciliation Act of 2012
6 had not been enacted.

7 “(ii) Any contributions under this subsection in ex-
8 cess of the amounts which (but for clause (i)) would other-
9 wise have been payable shall be applied toward reducing
10 the unfunded liability of the Civil Service Retirement Sys-
11 tem.

12 “(iii) After the unfunded liability of the Civil Service
13 Retirement System has been eliminated, as determined by
14 the Office, Government contributions under this sub-
15 section shall be determined and made disregarding this
16 subparagraph.

17 “(iv) The preceding provisions of this subparagraph
18 shall be disregarded for purposes of determining the con-
19 tributions payable by the United States Postal Service and
20 the Postal Regulatory Commission.”.

21 **SEC. 502. ANNUITY SUPPLEMENT.**

22 Section 8421(a) of title 5, United States Code, is
23 amended—

24 (1) in paragraph (1), by striking “paragraph
25 (3)” and inserting “paragraphs (3) and (4)”;

1 (2) in paragraph (2), by striking “paragraph
2 (3)” and inserting “paragraphs (3) and (4)”; and

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

4 “(4)(A) Except as provided in subparagraph (B), no
5 annuity supplement under this section shall be payable in
6 the case of an individual who first becomes subject to this
7 chapter after December 31, 2012.

8 “(B) Nothing in this paragraph applies in the case
9 of an individual separating under subsection (d) or (e) of
10 section 8412.”.

11 **SEC. 503. CONTRIBUTIONS TO THRIFT SAVINGS FUND OF**
12 **PAYMENTS FOR ACCRUED OR ACCUMULATED**
13 **LEAVE.**

14 (a) AMENDMENTS RELATING TO CSRS.—Section
15 8351(b) of title 5, United States Code, is amended—

16 (1) by striking paragraph (2)(A) and inserting
17 the following:

18 “(2)(A) An employee or Member may contribute to
19 the Thrift Savings Fund in any pay period any amount
20 of such employee’s or Member’s basic pay for such pay
21 period, and may contribute (by direct transfer to the
22 Fund) any part of any payment that the employee or
23 Member receives for accumulated and accrued annual or
24 vacation leave under section 5551 or 5552. Notwith-
25 standing section 2105(e), in this paragraph the term ‘em-

1 ployee' includes an employee of the United States Postal
2 Service or of the Postal Regulatory Commission.”;

3 (2) by striking subparagraph (B) of paragraph
4 (2); and

5 (3) by redesignating subparagraph (C) of para-
6 graph (2) as subparagraph (B).

7 (b) AMENDMENTS RELATING TO FERS.—Section
8 8432(a) of title 5, United States Code, is amended—

9 (1) by striking all that precedes paragraph (3)
10 and inserting the following:

11 “(a)(1) An employee or Member—

12 “(A) may contribute to the Thrift Savings
13 Fund in any pay period, pursuant to an election
14 under subsection (b), any amount of such employee’s
15 or Member’s basic pay for such pay period; and

16 “(B) may contribute (by direct transfer to the
17 Fund) any part of any payment that the employee
18 or Member receives for accumulated and accrued an-
19 nual or vacation leave under section 5551 or 5552.

20 “(2) Contributions made under paragraph (1)(A)
21 pursuant to an election under subsection (b) shall, with
22 respect to each pay period for which such election remains
23 in effect, be made in accordance with a program of regular
24 contributions provided in regulations prescribed by the
25 Executive Director.”; and

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

2 “(4) Notwithstanding section 2105(e), in this sub-
3 section the term ‘employee’ includes an employee of the
4 United States Postal Service or of the Postal Regulatory
5 Commission.”.

6 (c) REGULATIONS.—The Executive Director of the
7 Federal Retirement Thrift Investment Board shall pro-
8 mulgate regulations to carry out the amendments made
9 by this section.

10 (d) EFFECTIVE DATE.—The amendments made by
11 subsections (a) and (b) shall take effect 1 year after the
12 date of the enactment of this Act.

13 **TITLE VI—COMMITTEE ON WAYS**
14 **AND MEANS**

15 **Subtitle A—Recapture of Overpay-**
16 **ments Resulting From Certain**
17 **Federally-subsidized Health In-**
18 **surance**

19 **SEC. 601. RECAPTURE OF OVERPAYMENTS RESULTING**
20 **FROM CERTAIN FEDERALLY-SUBSIDIZED**
21 **HEALTH INSURANCE.**

22 (a) IN GENERAL.—Paragraph (2) of section 36B(f)
23 of the Internal Revenue Code of 1986 is amended by strik-
24 ing subparagraph (B).

1 (b) CONFORMING AMENDMENT.—So much of para-
2 graph (2) of section 36B(f) of such Code, as amended by
3 subsection (a), as precedes “advance payments” is amend-
4 ed to read as follows:

5 “(2) EXCESS ADVANCE PAYMENTS.—If the”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years ending after De-
8 cember 31, 2013.

9 **Subtitle B—Social Security Num-**
10 **ber Required to Claim the Re-**
11 **fundable Portion of the Child**
12 **Tax Credit**

13 **SEC. 611. SOCIAL SECURITY NUMBER REQUIRED TO CLAIM**
14 **THE REFUNDABLE PORTION OF THE CHILD**
15 **TAX CREDIT.**

16 (a) IN GENERAL.—Subsection (d) of section 24 of the
17 Internal Revenue Code of 1986 is amended by adding at
18 the end the following new paragraph:

19 “(5) IDENTIFICATION REQUIREMENT WITH RE-
20 SPECT TO TAXPAYER.—

21 “(A) IN GENERAL.—Paragraph (1) shall
22 not apply to any taxpayer for any taxable year
23 unless the taxpayer includes the taxpayer’s So-
24 cial Security number on the return of tax for
25 such taxable year.

1 “(B) JOINT RETURNS.—In the case of a
2 joint return, the requirement of subparagraph
3 (A) shall be treated as met if the Social Secu-
4 rity number of either spouse is included on such
5 return.

6 “(C) LIMITATION.—Subparagraph (A)
7 shall not apply to the extent the tentative min-
8 imum tax (as defined in section 55(b)(1)(A))
9 exceeds the credit allowed under section 32.”.

10 (b) OMISSION TREATED AS MATHEMATICAL OR
11 CLERICAL ERROR.—Subparagraph (I) of section
12 6213(g)(2) of such Code is amended to read as follows:

13 “(I) an omission of a correct Social Secu-
14 rity number required under section 24(d)(5)
15 (relating to refundable portion of child tax cred-
16 it), or a correct TIN under section 24(e) (relat-
17 ing to child tax credit), to be included on a re-
18 turn,”.

19 (c) CONFORMING AMENDMENT.—Subsection (e) of
20 section 24 of such Code is amended by inserting “WITH
21 RESPECT TO QUALIFYING CHILDREN” after “IDENTI-
22 FICATION REQUIREMENT” in the heading thereof.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning after
25 the date of the enactment of this Act.

1 **Subtitle C—Human Resources**
2 **Provisions**

3 **SEC. 621. REPEAL OF THE PROGRAM OF BLOCK GRANTS TO**
4 **STATES FOR SOCIAL SERVICES.**

5 (a) REPEALS.—Sections 2001 through 2007 of the
6 Social Security Act (42 U.S.C. 1397–1397f) are repealed.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 404(d) of the Social Security Act
9 (42 U.S.C. 604(d)) is amended—

10 (A) in paragraph (1), by striking “any or
11 all of the following provisions of law:” and all
12 that follows through “The” and inserting
13 “the”;

14 (B) in paragraph (3)—

15 (i) by striking “RULES” and all that
16 follows through “any amount paid” and in-
17 serting “RULES.—Any amount paid”;

18 (ii) by striking “a provision of law
19 specified in paragraph (1)” and inserting
20 “the Child Care and Development Block
21 Grant Act of 1990”; and

22 (iii) by striking subparagraph (B);

23 and

24 (C) by striking paragraph (2) and redesignig-
25 nating paragraph (3) as paragraph (2).

1 (2) Section 422(b) of the Social Security Act
2 (42 U.S.C. 622(b)) is amended—

3 (A) in paragraph (1)(A)—

4 (i) by striking “administers or super-
5 vises” and inserting “administered or su-
6 pervised”; and

7 (ii) by striking “subtitle 1 of title
8 XX” and inserting “subtitle A of title XX
9 (as in effect before the repeal of such sub-
10 title)”; and

11 (B) in paragraph (2), by striking “under
12 subtitle 1 of title XX,”.

13 (3) Section 471(a) of the Social Security Act
14 (42 U.S.C. 671(a)) is amended—

15 (A) in paragraph (4), by striking “, under
16 subtitle 1 of title XX of this Act,”; and

17 (B) in paragraph (8), by striking “XIX, or
18 XX” and inserting “or XIX”.

19 (4) Section 472(h)(1) of the Social Security Act
20 (42 U.S.C. 672(h)(1)) is amended by striking the
21 2nd sentence.

22 (5) Section 473(b) of the Social Security Act
23 (42 U.S.C. 673(b)) is amended—

24 (A) in paragraph (1), by striking “(3)”
25 and inserting “(2)”;

1 (B) in paragraph (4), by striking “para-
2 graphs (1) and (2)” and inserting “paragraph
3 (1)”; and

4 (C) by striking paragraph (2) and redesign-
5 ating paragraphs (3) and (4) as paragraphs
6 (2) and (3), respectively.

7 (6) Section 504(b)(6) of the Social Security Act
8 (42 U.S.C. 704(b)(6)) is amended in each of sub-
9 paragraphs (A) and (B) by striking “XIX, or XX”
10 and inserting “or XIX”.

11 (7) Section 1101(a)(1) of the Social Security
12 Act (42 U.S.C. 1301(a)(1)) is amended by striking
13 the penultimate sentence.

14 (8) Section 1128(h) of the Social Security Act
15 (42 U.S.C. 1320a-7(h)) is amended—

16 (A) by adding “or” at the end of para-
17 graph (2); and

18 (B) by striking paragraph (3) and redesign-
19 ating paragraph (4) as paragraph (3).

20 (9) Section 1128A(i)(1) of the Social Security
21 Act (42 U.S.C. 1320a-7a(i)(1)) is amended by strik-
22 ing “or subtitle 1 of title XX”.

23 (10) Section 1132(a)(1) of the Social Security
24 Act (42 U.S.C. 1320b-2(a)(1)) is amended by strik-
25 ing “XIX, or XX” and inserting “or XIX”.

1 (11) Section 1902(e)(13)(F)(iii) of the Social
2 Security Act (42 U.S.C. 1396a(e)(13)(F)(iii)) is
3 amended—

4 (A) by striking “EXCLUSIONS” and insert-
5 ing “EXCLUSION”; and

6 (B) by striking “an agency that determines
7 eligibility for a program established under the
8 Social Services Block Grant established under
9 title XX or”.

10 (12) The heading for title XX of the Social Se-
11 curity Act is amended by striking “BLOCK
12 GRANTS TO STATES FOR SOCIAL SERVICES”
13 and inserting “HEALTH PROFESSIONS DEM-
14 ONSTRATIONS AND ENVIRONMENTAL
15 HEALTH CONDITION DETECTION”.

16 (13) The heading for subtitle A of title XX of
17 the Social Security Act is amended by striking
18 “**Block Grants to States for Social Serv-**
19 **ices**” and inserting “**Health Professions**
20 **Demonstrations and Environmental**
21 **Health Condition Detection**”.

22 (14) Section 16(k)(5)(B)(i) of the Food and
23 Nutrition Act of 2008 (7 U.S.C. 2025(k)(5)(B)(i))
24 is amended by striking “, or title XX,”.

1 (15) Section 402(b)(3) of the Personal Respon-
2 sibility and Work Opportunity Reconciliation Act of
3 1996 (8 U.S.C. 1612(b)(3)) is amended by striking
4 subparagraph (B) and redesignating subparagraph
5 (C) as subparagraph (B).

6 (16) Section 245A(h)(4)(I) of the Immigration
7 Reform and Control Act of 1986 (8 U.S.C.
8 1255a(h)(4)(I)) is amended by striking “, XVI, and
9 XX” and inserting “and XVI”.

10 (17) Section 17 of the Richard B. Russell Na-
11 tional School Lunch Act (42 U.S.C. 1766) is amend-
12 ed—

13 (A) in subsection (a)(2)—

14 (i) in subparagraph (B)—

15 (I) by striking “—” and all that
16 follows through “(i)”;

17 (II) by striking “or” at the end
18 of clause (i); and

19 (III) by striking clause (ii); and

20 (ii) in subparagraph (D)(ii), by strik-
21 ing “or title XX”; and

22 (B) in subsection (o)(2)(B)—

23 (i) by striking “or title XX” each
24 place it appears; and

25 (ii) by striking “or XX”.

1 (18) Section 201(b) of the Indian Child Welfare
2 Act of 1978 (25 U.S.C. 1931(b)) is amended by
3 striking “titles IV–B and XX” each place it appears
4 and inserting “part B of title IV”.

5 (19) Section 3803(e)(2)(C) of title 31, United
6 States Code, is amended by striking clause (vi) and
7 redesignating clauses (vii) through (xvi) as clauses
8 (vi) through (xv), respectively.

9 (20) Section 14502(d)(3) of title 40, United
10 States Code, is amended—

11 (A) by striking “and title XX”; and

12 (B) by striking “, 1397 et seq.”.

13 (21) Section 2006(a)(15) of the Public Health
14 Service Act (42 U.S.C. 300z–5(a)(15)) is amended
15 by striking “and title XX”.

16 (22) Section 203(b)(3) of the Older Americans
17 Act of 1965 (42 U.S.C. 3013(b)(3)) is amended by
18 striking “XIX, and XX” and inserting “and XIX”.

19 (23) Section 213 of the Older Americans Act of
20 1965 (42 U.S.C. 3020d) is amended by striking “or
21 title XX”.

22 (24) Section 306(d) of the Older Americans Act
23 of 1965 (42 U.S.C. 3026(d)) is amended in each of
24 paragraphs (1) and (2) by striking “titles XIX and
25 XX” and inserting “title XIX”.

1 (25) Section 2605 of the Low-Income Home
2 Energy Assistance Act of 1981 (42 U.S.C. 8624) is
3 amended in each of subsections (b)(4) and (j) by
4 striking “under title XX of the Social Security
5 Act,”.

6 (26) Section 602 of the Child Development As-
7 sociate Scholarship Assistance Act of 1985 (42
8 U.S.C. 10901) is repealed.

9 (27) Section 3(d)(1) of the Assisted Suicide
10 Funding Restriction Act of 1997 (42 U.S.C.
11 14402(d)(1)) is amended by striking subparagraph
12 (C) and redesignating subparagraphs (D) through
13 (K) as subparagraphs (C) through (J), respectively.

14 (c) EFFECTIVE DATE.—The repeals and amend-
15 ments made by this section shall take effect on October
16 1, 2012.

17 **TITLE VII—SEQUESTER** 18 **REPLACEMENT**

19 **SEC. 701. SHORT TITLE.**

20 This title may be cited as the “Sequester Replace-
21 ment Act of 2012”.

22 **SEC. 702. PROTECTING VETERANS PROGRAMS FROM SE-** 23 **QUESTER.**

24 Section 256(e)(2)(E) of the Balanced Budget and
25 Emergency Deficit Control Act of 1985 is repealed.

1 **SEC. 703. ACHIEVING \$19 BILLION IN DISCRETIONARY SAV-**
2 **INGS.**

3 (a) REVISED 2013 DISCRETIONARY SPENDING
4 LIMIT.—Paragraph (2) of section 251(c) of the Balanced
5 Budget and Emergency Deficit Control Act of 1985 is
6 amended to read as follows:

7 “(2) with respect to fiscal year 2013, for the
8 discretionary category, \$1,047,000,000,000 in new
9 budget authority;”.

10 (b) DISCRETIONARY SAVINGS.—Section 251A(7)(A)
11 of the Balanced Budget and Emergency Deficit Control
12 Act of 1985 is amended to read as follows:

13 “(A) FISCAL YEAR 2013.—

14 “(i) FISCAL YEAR 2013 ADJUST-
15 MENT.—On January 2, 2013, the discre-
16 tionary category set forth in section
17 251(c)(2) shall be decreased by
18 \$19,104,000,000 in budget authority.

19 “(ii) SUPPLEMENTAL SEQUESTRATION
20 ORDER.—On January 15, 2013, OMB
21 shall issue a supplemental sequestration
22 report for fiscal year 2013 and take the
23 form of a final sequestration report as set
24 forth in section 254(f)(2) and using the
25 procedures set forth in section 253(f), to
26 eliminate any discretionary spending

1 breach of the spending limit set forth in
2 section 251(c)(2) as adjusted by clause (i),
3 and the President shall order a sequestra-
4 tion, if any, as required by such report.”.

5 **SEC. 704. CONFORMING AMENDMENTS TO SECTION 314 OF**
6 **THE CONGRESSIONAL BUDGET AND IM-**
7 **POUNDMENT CONTROL ACT OF 1974.**

8 Section 314(a) of the Congressional Budget Act of
9 1974 is amended to read as follows:

10 “(a) ADJUSTMENTS.—

11 “(1) IN GENERAL.—The chair of the Committee
12 on the Budget of the House of Representatives or
13 the Senate may make adjustments as set forth in
14 paragraph (2) for a bill or joint resolution, amend-
15 ment thereto or conference report thereon, by the
16 amount of new budget authority and outlays flowing
17 therefrom in the same amount as required by section
18 251(b) of the Balanced Budget and Emergency Def-
19 icit Control Act of 1985.

20 “(2) MATTERS TO BE ADJUSTED.—The chair of
21 the Committee on the Budget of the House of Rep-
22 resentatives or the Senate may make the adjust-
23 ments referred to in paragraph (1) to—

1 “(A) the allocations made pursuant to the
2 appropriate concurrent resolution on the budget
3 pursuant to section 302(a);

4 “(B) the budgetary aggregates as set forth
5 in the appropriate concurrent resolution on the
6 budget; and

7 “(C) the discretionary spending limits, if
8 any, set forth in the appropriate concurrent res-
9 olution on the budget.”.

10 **SEC. 705. TREATMENT FOR PAYGO PURPOSES.**

11 The budgetary effects of this Act and any amendment
12 made by it shall not be entered on either PAYGO score-
13 card maintained pursuant to section 4(d) of the Statutory
14 Pay-As-You-Go Act of 2010.

15 **SEC. 706. ELIMINATION OF THE FISCAL YEAR 2013 SEQUES-**
16 **TRATION FOR DEFENSE DIRECT SPENDING.**

17 Any sequestration order issued by the President
18 under the Balanced Budget and Emergency Deficit Con-
19 trol Act of 1985 to carry out reductions to direct spending
20 for the defense function (050) for fiscal year 2013 pursu-
21 ant to section 251A of such Act shall have no force or
22 effect.

 Passed the House of Representatives May 10, 2012.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 398

112TH CONGRESS
2^D SESSION

H. R. 5652

AN ACT

To provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2013.

MAY 15, 2012

Read the second time and placed on the calendar