

21ST CENTURY FLOOD REFORM ACT

SEPTEMBER 11, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2874]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2874) to achieve reforms to improve the financial stability of the National Flood Insurance Program, to enhance the development of more accurate estimates of flood risk through new technology and better maps, to increase the role of private markets in the management of flood insurance risks, and to provide for alternative methods to insure against flood peril, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

- (a) SHORT TITLE.—This Act may be cited as the “21st Century Flood Reform Act”.
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—POLICYHOLDER PROTECTIONS AND INFORMATION

- Sec. 101. Annual limitation on premium increases.
Sec. 102. Flood insurance affordability program.
Sec. 103. Disclosure of premium methodology.
Sec. 104. Consideration of coastal and inland locations in premium rates.
Sec. 105. Monthly installment payment of premiums.
Sec. 106. Enhanced clear communication of flood risks.
Sec. 107. Availability of flood insurance information upon request.
Sec. 108. Disclosure of flood risk information upon transfer of property.
Sec. 109. Voluntary community-based flood insurance pilot program.
Sec. 110. Extension of National Flood Insurance Program.

TITLE II—INCREASING CONSUMER CHOICE THROUGH PRIVATE MARKET DEVELOPMENT

- Sec. 201. Elimination of non-compete requirement.
- Sec. 202. Public availability of program information.
- Sec. 203. Refund of premiums upon cancellation of policy because of replacement with private flood insurance.
- Sec. 204. Provision of private flood insurance by mutual aid societies.
- Sec. 205. GAO study of flood damage savings accounts.
- Sec. 206. Demonstration program for flood damage savings accounts.

TITLE III—MAPPING FAIRNESS

- Sec. 301. Use of other risk assessment tools in determining premium rates.
- Sec. 302. Appeals regarding existing flood maps.
- Sec. 303. Appeals and publication of projected special flood hazard areas.
- Sec. 304. Communication and outreach regarding map changes.
- Sec. 305. Sharing and use of maps and data.

TITLE IV—PROTECTING CONSUMERS AND INDIVIDUALS THROUGH IMPROVED MITIGATION

- Sec. 401. Provision of Community Rating System premium credits to maximum number of communities practicable.

TITLE V—PROGRAM INTEGRITY

- Sec. 501. Independent actuarial review.
- Sec. 502. Adjustments to homeowner flood insurance affordability surcharge.
- Sec. 503. National Flood Insurance Reserve Fund compliance.
- Sec. 504. Designation and treatment of multiple-loss properties.
- Sec. 505. Elimination of coverage for properties with excessive lifetime claims.
- Sec. 506. Addressing tomorrow's high-risk structures today.
- Sec. 507. Pay for performance and streamlining costs and reimbursement.
- Sec. 508. Enforcement of mandatory purchase requirements.
- Sec. 509. Satisfaction of mandatory purchase requirement in States allowing all-perils policies.
- Sec. 510. Flood insurance purchase requirements.
- Sec. 511. Clarifications; deadline for approval of claims.
- Sec. 511. GAO study of simplification of National Flood Insurance Program.

TITLE I—POLICYHOLDER PROTECTIONS AND INFORMATION

SEC. 101. ANNUAL LIMITATION ON PREMIUM INCREASES.

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

- (1) in paragraph (1), by striking “18 percent” and inserting “15 percent”; and
- (2) in paragraph (2), by striking “5 percent” and inserting “8 percent”.

SEC. 102. FLOOD INSURANCE AFFORDABILITY PROGRAM.

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by adding at the end the following new section:

“SEC. 1326. FLOOD INSURANCE AFFORDABILITY PROGRAM.

“(a) **AUTHORITY.**—The Administrator shall carry out a program under this section to provide financial assistance, through State programs carried out by participating States, for eligible low-income households residing in eligible properties to purchase policies for flood insurance coverage made available under this title.

“(b) **PARTICIPATION.**—Participation in the program under this section shall be voluntary on the part of a State or consortium of States.

“(c) **STATE ADMINISTRATION.**—Each participating State shall delegate to a State agency or nonprofit organization the responsibilities for administering the State's program under this section.

“(d) **ELIGIBLE HOUSEHOLDS.**—

“(1) **IN GENERAL.**—During any fiscal year, assistance under the program under this section may be provided only for a household that has an income, as determined for such fiscal year by the participating State in which such household resides, that is less than the income limitation established for such fiscal year for purposes of the State program by the participating State, except that—

“(A) assistance under the program under this section may not be provided for a household having a income that exceeds the greater of—

“(i) the amount equal to 150 percent of the poverty level for such State; or

“(ii) the amount equal to 60 percent of the median income of households residing in such State; and

“(B) a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for the State in which such household resides.

“(2) **STATE VERIFICATION OF INCOME ELIGIBILITY.**—In verifying income eligibility for purposes of paragraph (1), the participating State may apply proce-

dures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), under title XX of the Social Security Act (42 U.S.C. 1397 et seq.), under subtitle B of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9901 et seq.; relating to community services block grant program), under any other provision of law that carries out programs which were administered under the Economic Opportunity Act of 1964 (42 U.S.C. 2701 et seq.) before August 13, 1981, or under other income assistance or service programs (as determined by the State).

“(3) CERTIFICATION BY STATE OF ELIGIBILITY HOUSEHOLDS.—For each fiscal year, each participating State shall certify to the Administrator compliance of households who are to be provided assistance under the State program during such fiscal year with the income requirements under paragraph (1).

“(e) ELIGIBLE PROPERTIES.—Assistance under the program under this section may be provided only for a residential property—

“(1) that has 4 or fewer residences;

“(2) that is owned and occupied by an eligible household;

“(3) for which a base flood elevation is identified on a flood insurance rate map of the Administrator that is in effect;

“(4) for which such other information is available as the Administrator considers necessary to determine the flood risk associated with such property; and

“(5) that is located in a community that is participating in the national flood insurance program.

“(f) TYPES OF ASSISTANCE.—Under the program under this section, a participating State shall elect to provide financial assistance for eligible households in one of the following forms:

“(1) LIMITATION ON RATE INCREASES.—By establishing a limitation on the rate of increases in the amount of chargeable premiums paid by eligible households for flood insurance coverage made available under this title.

“(2) LIMITATION ON RATES.—By establishing a limitation on the amount of chargeable premiums paid by eligible households for flood insurance coverage made available under this title.

“(g) NOTIFICATION TO FEMA.—Under the program under this section, a participating State shall, on a fiscal year basis and at the time and in the manner provided by the Administrator—

“(1) identify for the Administrator the eligible households residing in the State who are to be provided assistance under the State program during such fiscal year; and

“(2) notify the Administrator of the type and levels of assistance elected under subsection (f) to be provided under the State program with respect to such eligible households residing in the State.

“(h) AMOUNT OF ASSISTANCE.—Under the program under this section, in each fiscal year the Administrator shall, notwithstanding section 1308, make flood insurance coverage available for purchase by households identified as eligible households for such fiscal year by a participating State pursuant to subsection (e) at chargeable premium rates that are discounted by an amount that is based on the type and levels of assistance elected pursuant to subsection (f) by the participating State for such fiscal year.

“(i) BILLING STATEMENT.—In the case of an eligible household for which assistance under the program under this section is provided with respect to a policy for flood insurance coverage, the annual billing statement for such policy shall include statements of the following amounts:

“(1) The estimated risk premium rate for the property under section 1307(a)(1).

“(2) If applicable, the estimated risk premium rate for the property under section 1307(a)(2).

“(3) The chargeable risk premium rate for the property taking into consideration the discount pursuant to subsection (h).

“(4) The amount of the discount pursuant to subsection (h) for the property.

“(5) The number and dollar value of claims filed for the property, over the life of the property, under a flood insurance policy made available under the Program and the effect, under this Act, of filing any further claims under a flood insurance policy with respect to that property.

“(j) FUNDING THROUGH STATE AFFORDABILITY SURCHARGES.—

“(1) IMPOSITION AND COLLECTION.—Notwithstanding section 1308, for each fiscal year in which flood insurance coverage under this title is made available for properties in a participating State at chargeable premium rates that are discounted pursuant to subsection (f), the Administrator shall impose and collect a State affordability surcharge on each policy for flood insurance coverage for

a property located in such participating State that is (A) not a residential property having 4 or fewer residences, or (B) is such a residential property but is owned by a household that is not an eligible household for purposes of such fiscal year.

“(2) AMOUNT.—The amount of the State affordability surcharge imposed during a fiscal year on each such policy for a property in a participating State shall be—

“(A) sufficient such that the aggregate amount of all such State affordability surcharges imposed on properties in such participating State during such fiscal year is equal to the aggregate amount by which all policies for flood insurance coverage under this title sold during such fiscal year for properties owned by eligible households in the participating State are discounted pursuant to subsection (f); and

“(B) the same amount for each property in the participating State being charged such a surplus.

“(k) TREATMENT OF OTHER SURCHARGES.—The provision of assistance under the program under this section with respect to any property and any limitation on premiums or premium increases pursuant to subsection (f) for the property shall not affect the applicability or amount of any surcharge under section 1308A for the property, of any increase in premiums charged for the property pursuant to section 1310A(c), or of any equivalency fee under section 1308B for the property.

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

“(1) PARTICIPATING STATE.—The term ‘participating State’ means, with respect to a fiscal year, a State that is participating in the program under this section for such fiscal year.

“(2) ELIGIBLE HOUSEHOLD.—The term ‘eligible household’ means, with respect to a fiscal year and a participating State, a household that has an income that is less than the amount of the income limitation for the fiscal year established for purposes of the State program of such participating State pursuant to subsection (g)(1).

“(3) POVERTY LEVEL.—The term ‘poverty level’ means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), as applicable to such State.

“(4) STATE.—The term ‘State’ shall include a consortium of States established for purposes of administering the program under this section with respect to the member States of the consortium.

“(5) STATE PROGRAM.—The term ‘State program’ means a program carried out in compliance with this section by a participating State in conjunction with the program under this section of the Administrator.

“(m) REGULATIONS.—The Administrator shall issue such regulations as may be necessary to carry out the program under this section.”.

SEC. 103. DISCLOSURE OF PREMIUM METHODOLOGY.

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

“(n) DISCLOSURE OF PREMIUM METHODOLOGY.—

“(1) DISCLOSURE.—Six months prior to the effective date of risk premium rates, the Administrator shall cause to be published in the Federal Register an explanation of the bases for, and methodology used to determine, the chargeable premium rates to be effective for flood insurance coverage under this title.

“(2) ALIGNMENT WITH INDUSTRY PRACTICES.—The disclosure required under paragraph (1) shall, to the extent practicable, be aligned with industry patterns and practices and shall include information and data recommended by the State insurance commissioners guidelines on rate filings.

“(3) PUBLIC MEETINGS.—The Administrator shall, on an annual basis, hold at least one public meeting in each of the geographical regions of the United States, as defined by the Administrator for purposes of the National Flood Insurance Program, for the purpose of explaining the methodology described in paragraph (1) and answering questions and receiving comments regarding such methodology. The Administrator shall provide notice of each such public meeting in advance, in such manner, and in using such means as are reasonably designed to notify interested parties and members of the public of the date and time, location, and purpose of such meeting, and of how to submit questions or comments.”.

SEC. 104. CONSIDERATION OF COASTAL AND INLAND LOCATIONS IN PREMIUM RATES.

(a) ESTIMATES OF PREMIUM RATES.—Subparagraph (A) of section 1307(a)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)(1)(A)) is amended—

- (1) in clause (i), by striking “and” at the end; and
 (2) by adding at the end the following new clause:

“(iii) the differences in flood risk for properties impacted by coastal flood risk and properties impacted by riverine, or inland flood risk; and”.

(b) ESTABLISHMENT OF CHARGEABLE PREMIUM RATES.—Paragraph (1) of section 1308(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(b)(1)) is amended by inserting “due to differences in flood risk resulting from coastal flood hazards and riverine, or inland flood hazards and” after “including differences in risks”.

(c) REVISED RATES.—Not later than the expiration of the two-year period beginning on the date of the enactment of this Act, the Administrator of the Federal Emergency Management Agency shall revise risk premium rates under the National Flood Insurance Program to implement the amendments made by this section.

SEC. 105. MONTHLY INSTALLMENT PAYMENT OF PREMIUMS.

Subsection (g) of section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(g)) is amended—

- (1) by striking the subsection designation and all that follows through “With respect” and inserting the following:

“(g) FREQUENCY OF PREMIUM COLLECTION.—

“(1) OPTIONS.—With respect”; and

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

“(2) MONTHLY INSTALLMENT PAYMENT OF PREMIUMS.—

“(A) EXEMPTION FROM RULEMAKING.—Until such time as the Administrator promulgates regulations implementing paragraph (1) of this subsection, the Administrator may adopt policies and procedures, notwithstanding any other provisions of law and in alignment and consistent with existing industry escrow and servicing standards, necessary to implement such paragraph without undergoing notice and comment rulemaking and without conducting regulatory analyses otherwise required by statute, regulation, or Executive order.

“(B) INSTALLMENT PLAN FEE.—The Administrator may charge policyholders choosing to pay premiums in monthly installments a fee not to exceed \$50 annually.

“(C) PILOT PROGRAM.—The Administrator may initially implement paragraph (1) of this subsection as a pilot program that provides for a gradual phase-in of implementation.”.

SEC. 106. ENHANCED CLEAR COMMUNICATION OF FLOOD RISKS.

(a) IN GENERAL.—Subsection (l) of section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(l)) is amended to read as follows:

“(l) CLEAR COMMUNICATIONS.—

“(1) NEWLY ISSUED AND RENEWED POLICIES.—For all policies for flood insurance coverage under the National Flood Insurance Program that are newly issued or renewed, the Administrator shall clearly communicate to policyholders—

“(A) their full flood risk determinations, regardless of whether their premium rates are full actuarial rates; and

“(B) the number and dollar value of claims filed for the property, over the life of the property, under a flood insurance policy made available under the Program and the effect, under this Act, of filing any further claims under a flood insurance policy with respect to that property.”.

(b) EFFECTIVE DATE.—Subsection (l) of section 1308 of the National Flood Insurance Act of 1968, as added by subsection (a) of this section, shall take effect beginning upon the expiration of the 12-month period that begins on the date of the enactment of this Act. Such subsection (l), as in effect immediately before the amendment made by paragraph (1), shall apply during such 12-month period.

SEC. 107. AVAILABILITY OF FLOOD INSURANCE INFORMATION UPON REQUEST.

Section 1313 of the National Flood Insurance Act of 1968 (42 U.S.C. 4020) is amended—

- (1) by inserting “(a) PUBLIC INFORMATION AND DATA.—” after “SEC. 1313.”; and

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

“(b) AVAILABILITY OF FLOOD INSURANCE INFORMATION UPON REQUEST.—Not later than 30 days after a request for such information by the current owner of a property, the Administrator shall provide to the owner any information, including historical information, available to the Administrator on flood insurance program coverage, payment of claims, and flood damages for the property at issue, and any information the Administrator has on whether the property owner may be required

to purchase coverage under the National Flood Insurance Program due to previous receipt of Federal disaster assistance, including assistance provided by the Small Business Administration, the Department of Housing and Urban Development, or the Federal Emergency Management Agency, or any other type of assistance that subjects the property to the mandatory purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a).”.

SEC. 108. DISCLOSURE OF FLOOD RISK INFORMATION UPON TRANSFER OF PROPERTY.

(a) **IN GENERAL.**—Chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

“SEC. 1327. DISCLOSURE OF FLOOD RISK INFORMATION UPON TRANSFER OF PROPERTY.

“(a) **REQUIREMENT FOR PARTICIPATION IN PROGRAM.**—After September 30, 2022, no new flood insurance coverage may be provided under this title for any real property located in any area (or subdivision thereof) unless an appropriate body has imposed, by statute or regulation, a duty on any seller or lessor of improved real estate located in such area to provide to any purchaser or lessee of such property a property flood hazard disclosure which the Administrator has determined meets the requirements of subsection (b).

“(b) **DISCLOSURE REQUIREMENTS.**—A property flood hazard disclosure for a property shall meet the requirements of this subsection only if the disclosure—

“(1) is made in writing;

“(2) discloses any actual knowledge of the seller or lessor of—

“(A) prior physical damage caused by flood to any building located on the property;

“(B) prior insurance claims for losses covered under the National Flood Insurance Program or private flood insurance with respect to such property;

“(C) any previous notification regarding the designation of the property as a repetitive loss or severe repetitive loss property; and

“(D) any Federal legal obligation to obtain and maintain flood insurance running with the property, such as any obligation due to a previous form of disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act received by any owner of the property; and

“(3) is delivered by or on behalf of the seller or lessor to the purchaser or lessee before such purchaser or lessee becomes obligated under any contract for purchase or lease of the property.”.

(b) **AVAILABILITY OF FLOOD INSURANCE COVERAGE.**—Subsection (c) of section 1305 of the National Flood Insurance Act of 1968 (42 U.S.C. 4012(c)) is amended—

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

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

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

“(3) given satisfactory assurance that by September 31, 2022, property flood hazard disclosure requirements will have been adopted for the area that meet the requirements of section 1326.”.

SEC. 109. VOLUNTARY COMMUNITY-BASED FLOOD INSURANCE PILOT PROGRAM.

(a) **ESTABLISHMENT.**—The Administrator of the Federal Emergency Management Agency (in this section referred to as the “Administrator”) may carry out a community-based flood insurance pilot program to make available, for purchase by participating communities, a single, community-wide flood insurance policy under the National Flood Insurance Program that—

(1) covers all residential and non-residential properties within the community;

and

(2) satisfies, for all such properties within the community, the mandatory purchase requirements under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a).

(b) **PARTICIPATION.**—Participation by a community in the pilot program under this section shall be entirely voluntary on the part of the community.

(c) **REQUIREMENTS FOR COMMUNITY-WIDE POLICIES.**—The Administrator shall ensure that a community-wide flood insurance policy made available under the pilot program under this section incorporates the following requirements:

(1) A mapping requirement for properties covered by the policy.

(2) A cap on premiums.

(3) A deductible.

(4) Certification or accreditation of mitigation infrastructure when available and appropriate.

(5) A community audit.

(6) The Community Rating System under section 1315(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4022(b)).

(7) A method of preventing redundant claims payments by the National Flood Insurance Program in the case of a claim by an individual property owner who is covered by a community-wide flood insurance policy and an individual policy obtained through the Program.

(8) Coverage for damage arising from flooding that complies with the standards under the National Flood Insurance Program appropriate to the nature and type of property covered.

(d) **TIMING.**—The Administrator may establish the demonstration program under this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act and the program shall terminate on September 30, 2022.

(e) **DEFINITION OF COMMUNITY.**—For purposes of this section, the term “community” means any unit of local government, within the meaning given such term under the laws of the applicable State.

SEC. 110. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) **FINANCING.**—Section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amended by striking “September 30, 2017” and inserting “September 30, 2022”.

(b) **PROGRAM EXPIRATION.**—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking “September 30, 2017” and inserting “September 30, 2022”.

TITLE II—INCREASING CONSUMER CHOICE THROUGH PRIVATE MARKET DEVELOPMENT

SEC. 201. ELIMINATION OF NON-COMPETE REQUIREMENT.

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

“(f) **AUTHORITY TO PROVIDE OTHER FLOOD COVERAGE.**—

“(1) **IN GENERAL.**—The Administrator may not, as a condition of participating in the Write Your Own Program (as such term is defined in section 1370(a)) or in otherwise participating in the utilization by the Administrator of the facilities and services of insurance companies, insurers, insurance agents and brokers, and insurance adjustment organizations pursuant to the authority in this section, nor as a condition of eligibility to engage in any other activities under the National Flood Insurance Program under this title, restrict any such company, insurer, agent, broker, or organization from offering and selling private flood insurance (as such term is defined in section 102(b)(9) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(9))).

“(2) **FINANCIAL ASSISTANCE/SUBSIDY ARRANGEMENT.**—After the date of the enactment of this subsection—

“(A) the Administrator may not include in any agreement entered into with any insurer for participation in the Write Your Own Program any provision establishing a condition prohibited by paragraph (1), including the provisions of Article XIII of the Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement, as adopted pursuant to section 62.23(a) of title 44 of the Code of Federal Regulations; and

“(B) any such provision in any such agreement entered into before such date of enactment shall not have any force or effect, and the Administrator may not take any action to enforce such provision.”.

SEC. 202. PUBLIC AVAILABILITY OF PROGRAM INFORMATION.

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

“SEC. 1349. PUBLIC AVAILABILITY OF PROGRAM INFORMATION.

“(a) **FLOOD RISK INFORMATION.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), to facilitate the National Flood Insurance Program becoming a source of information and data for research and development of technology that better understands flooding, the risk of flooding, and the predictability of perils of flooding, the Administrator shall make publicly available all data, models, assessments, analytical tools, and other information in the possession of the Administrator relating to the Na-

tional Flood Insurance Program under this title that is used in assessing flood risk or identifying and establishing flood elevations and premiums, including—

“(A) data relating to risk on individual properties and loss ratio information and other information identifying losses under the program;

“(B) current and historical policy information, limited to the amount and term only, for properties currently covered by flood insurance and for properties that are no longer covered by flood insurance;

“(C) current and historical claims information, limited to the date and amount paid only, for properties currently covered by flood insurance and for properties that are no longer covered by flood insurance;

“(D) identification of whether a property was constructed before or after the effective date of the first flood insurance rate map for a community;

“(E) identification of properties that have been mitigated through elevation, a buyout, or any other mitigation action; and

“(F) identification of unmitigated multiple-loss properties.

“(2) OPEN SOURCE DATA SYSTEM.—In carrying out paragraph (1), the Administrator shall establish an open source data system by which all information required to be made publicly available by such subsection may be accessed by the public on an immediate basis by electronic means.

“(b) COMMUNITY INFORMATION.—Not later than the expiration of the 12-month period beginning upon the date of the enactment of this section, the Administrator shall establish and maintain a publicly searchable database that provides information about each community participating in the National Flood Insurance Program, which shall include the following information:

“(1) The status of the community’s compliance with the National Flood Insurance Program, including any findings of noncompliance, the status of any enforcement actions initiated by a State or by the Administrator, and the number of days of any such continuing noncompliance.

“(2) The number of properties located in the community’s special flood hazard areas that were built before the effective date of the first flood insurance rate map for the community.

“(3) The number of properties located in the community’s special flood hazard areas that were built after the effective date of the first flood insurance rate map for the community.

“(4) The total number of current and historical claims located outside the community’s special flood hazard areas.

“(5) The total number of multiple-loss properties in the community.

“(6) The portion of the community, stated as a percentage and in terms of square miles, that is located within special flood hazard areas.

“(c) IDENTIFICATION OF PROPERTIES.—The information provided pursuant to subsections (a) and (b) shall be based on data that identifies properties at the zip code or census block level, and shall include the name of the community and State in which a property is located.

“(d) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—The information provided pursuant to subsections (a) and (b) shall be disclosed in a format that does not reveal individually identifiable information about property owners in accordance with the section 552a of title 5, United States Code.

“(e) DEFINITION OF LOSS RATIO.—For purposes of this section, the term ‘loss ratio’ means, with respect to the National Flood Insurance Program, the ratio of the amount of claims paid under the Program to the amount of premiums paid under the Program.”.

SEC. 203. REFUND OF PREMIUMS UPON CANCELLATION OF POLICY BECAUSE OF REPLACEMENT WITH PRIVATE FLOOD INSURANCE.

Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended by adding at the end the following new subsection:

“(e) REFUND OF UNEARNED PREMIUMS FOR POLICIES CANCELED BECAUSE OF REPLACEMENT WITH PRIVATE FLOOD INSURANCE.—

“(1) REQUIRED REFUND.—Subject to subsection (c), if at any time an insured under a policy for flood insurance coverage for a property that is made available under this title cancels such policy because other duplicate flood insurance coverage for the same property has been obtained from a source other than the National Flood Insurance Program under this title, the Administrator shall refund to the former insured a portion of the premiums paid for the coverage made available under this title, as determined consistent with industry practice according to the portion of the term of the policy that such coverage was in effect, but only if a copy of declarations page of the new policy obtained from a source other than the program under this title is provided to the Administrator.

“(2) EFFECTIVE DATE OF CANCELLATION.—For purposes of this subsection, a cancellation of a policy for coverage made available under the national flood in-

insurance program under this title, for the reason specified in paragraph (1), shall be effective—

“(A) on the effective date of the new policy obtained from a source other than the program under this title, if the request for such cancellation was received by the Administrator before the expiration of the 6-month period beginning on the effective date of the new policy; or

“(B) on the date of the receipt by the Administrator of the request for cancellation, if the request for such cancellation was received by the Administrator after the expiration of the 6-month period beginning on the effective date of the new policy.

“(3) PROHIBITION OF REFUNDS FOR PROPERTIES RECEIVING INCREASED COST OF COMPLIANCE CLAIMS.—No premium amounts paid for coverage made available under this title may be refunded pursuant to this subsection—

“(A) with respect to coverage for any property for which measures have been implemented using amounts received pursuant to a claim under increased cost of compliance coverage made available pursuant to section 1304(b); or

“(B) if a claim has been paid or is pending under the policy term for which the refund is sought.”.

SEC. 204. PROVISION OF PRIVATE FLOOD INSURANCE BY MUTUAL AID SOCIETIES.

Paragraph (7) of section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(c)) is amended to read as follows:

“(7) DEFINITIONS.—In this section:

“(A) FEDERAL FLOOD INSURANCE.—The term ‘Federal flood insurance’ means an insurance policy made available under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

“(B) FLOOD INSURANCE.—The term ‘flood insurance’ means—

“(i) Federal flood insurance; and

“(ii) private flood insurance.

“(C) MUTUAL AID SOCIETY.—The term ‘mutual aid society’ means an organization—

“(i) the members of which—

“(I) share a common set of ethical or religious beliefs; and

“(II) in accordance with the beliefs described in subclause (I), agree to cover expenses arising from damage to property of the members of the organization, including damage caused by flooding; and

“(ii) that has a demonstrated history of fulfilling the terms of agreements to cover expenses arising from damage to property of the members of the organization caused by flooding.

“(D) PRIVATE FLOOD INSURANCE.—The term ‘private flood insurance’ means—

“(i) an insurance policy that—

“(I) is issued by an insurance company that is—

“(aa) licensed, admitted, or otherwise approved to engage in the business of insurance in the State in which the insured building is located, by the insurance regulator of that State; or

“(bb) eligible as a nonadmitted insurer to provide insurance in the home State of the insured, in accordance with sections 521 through 527 of the Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8201 through 8206);

“(II) is issued by an insurance company that is not otherwise disapproved as a surplus lines insurer by the insurance regulator of the State in which the property to be insured is located; and

“(III) provides flood insurance coverage that complies with the laws and regulations of that State; or

“(ii) an agreement with a mutual aid society for such society to cover expenses arising from damage to property of the members of such society caused by flooding, unless the State in which the property to be insured is located has—

“(I) determined that the specific mutual aid society may not provide such coverage or provide such coverage in such manner; or

“(II) specifically provided through law or regulation that mutual aid societies may not provide such coverage or provide such coverage in such manner.

“(E) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.”.

SEC. 205. GAO STUDY OF FLOOD DAMAGE SAVINGS ACCOUNTS.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to analyze the feasibility and effectiveness, and problems involved, in reducing flood insurance premiums and eliminating the need for purchase of flood insurance coverage by authorizing owners of residential properties to establish flood damage savings accounts described in subsection (b) in lieu of complying with the mandatory requirements under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) to purchase flood insurance for such properties.

(b) **FLOOD DAMAGE SAVINGS ACCOUNT.**—A flood damage savings account described in this subsection is a savings account—

(1) that would be established by an owner of residential property with respect to such property in accordance with requirements established by the Administrator of the Federal Emergency Management Agency; and

(2) the proceeds of which would be available for use only to cover losses to such properties resulting from flooding, pursuant to adjustment of a claim for such losses in the same manner and according to the same procedures as apply to claims for losses under flood insurance coverage made available under the National Flood Insurance Act of 1968.

(c) **ISSUES.**—Such study shall include an analysis of, and recommendation regarding, each of the following issues:

(1) Whether authorizing the establishment of such flood damage savings accounts would be effective and efficient in reducing flood insurance premiums, eliminating the need for purchase of flood insurance coverage made available under the National Flood Insurance Program, and reducing risks to the financial safety and soundness of the National Flood Insurance Fund.

(2) Possible options for structuring such flood damage savings accounts, including—

(A) what types of institutions could hold such accounts and the benefits and problems with each such type of institution;

(B) considerations affecting the amounts required to be held in such accounts; and

(C) options regarding considerations the conditions under which such an account may be terminated.

(3) The feasibility and effectiveness, and problems involved in, authorizing the Administrator of the Federal Emergency Management Agency to make secondary flood insurance coverage available under the National Flood Insurance Program to cover the portion of flood losses or damages to properties for which such flood damage savings accounts have been established that exceed the amounts held in such accounts.

(4) The benefits and problems involved in authorizing the establishment of such accounts for non-residential properties.

(d) **REPORT.**—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Financial Services of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Administrator that sets forth the analysis, conclusions, and recommendations resulting from the study under this section. Such report shall identify elements that should be taken into consideration by the Administrator in designing and carrying out the demonstration program under section 205.

SEC. 206. DEMONSTRATION PROGRAM FOR FLOOD DAMAGE SAVINGS ACCOUNTS.

(a) **PLAN.**—If the Comptroller General of the United States concludes in the report required under section 205 that a demonstration program under this section is feasible and should be considered, then the Administrator of the Federal Emergency Management Agency shall, not later than the expiration of the 12-month period beginning upon the submission of the report under section 205(d), submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a plan and guidelines for a demonstration program, to be carried out by the Administrator, to demonstrate the feasibility and effectiveness of authorizing the establishment of flood damage savings accounts, taking into consideration the analysis, conclusions, and recommendations included in such report.

(b) **AUTHORITY.**—The Administrator of the Federal Emergency Management Agency shall carry out a program to demonstrate the feasibility and effectiveness of authorizing the establishment of flood damage savings accounts in the manner provided in plan and guidelines for the demonstration program submitted pursuant to subsection (a).

(c) **SCOPE.**—The demonstration program under this section shall provide for the establishment of flood damage savings accounts with respect to not more than 5 per-

cent of the residential properties that have 4 or fewer residences and that are covered by flood insurance coverage made available under the National Flood Insurance Program.

(d) **TIMING.**—The Administrator shall commence the demonstration program under this section not later than the expiration of the 12-month period beginning upon the submission of the plan and guidelines for the demonstration pursuant to subsection (a).

(e) **GEOGRAPHICAL DIVERSITY.**—The Administrator shall ensure that properties for which flood damage savings accounts are established under the demonstration are located in diverse geographical areas throughout the United States.

(f) **REPORT.**—Upon the expiration of the 2-year period beginning upon the date of the commencement of the demonstration program under this section, the Administrator shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing and assessing the demonstration, and setting forth conclusions and recommendations regarding continuing and expanding the demonstration.

(g) **FEASIBILITY.**—The Administrator shall implement this section only after determining that implementation is supported by the Comptroller’s conclusions and recommendations contained in the report required under section 205.

TITLE III—MAPPING FAIRNESS

SEC. 301. USE OF OTHER RISK ASSESSMENT TOOLS IN DETERMINING PREMIUM RATES.

(a) **ESTIMATES OF PREMIUM RATES.**—Subparagraph (A) of section 1307(a)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)(1)(A)) is amended—

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

(2) by adding at the end the following new clause:

“(iv) both the risk identified by the applicable flood insurance rate maps and by other risk assessment data and tools, including risk assessment models and scores from appropriate sources; and”.

(b) **ESTABLISHMENT OF CHARGEABLE PREMIUM RATES.**—Paragraph (1) of section 1308(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(b)(1)) is amended by inserting before the semicolon at the end the following: “, taking into account both the risk identified by the applicable flood insurance rate maps and by other risk assessment data and tools, including risk assessment models and scores from appropriate sources”.

(c) **EFFECTIVE DATE AND REGULATIONS.**—

(1) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall be made, and shall take effect, upon the expiration of the 36-month period beginning on the date of the enactment of this Act.

(2) **REGULATIONS.**—The Administrator of the Federal Emergency Management Agency shall issue regulations necessary to implement the amendments made by subsections (a) and (b), which shall identify risk assessment data and tools to be used in identifying flood risk and appropriate sources for risk assessment models and scores to be so used. Such regulations shall be issued not later than the expiration of the 36-month period beginning on the date of the enactment of this Act and shall take effect upon the expiration of such period.

SEC. 302. APPEALS REGARDING EXISTING FLOOD MAPS.

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

“(k) **APPEALS OF EXISTING MAPS.**—

“(1) **RIGHT TO APPEAL.**—Subject to paragraph (6), a State or local government, or the owner or lessee of real property, who has made a formal request to the Administrator to update a flood map that the Administrator has denied may at any time appeal such a denial as provided in this subsection.

“(2) **BASIS FOR APPEAL.**—The basis for appeal under this subsection shall be the possession of knowledge or information that—

“(A) the base flood elevation level or designation of any aspect of a flood map is scientifically or technically inaccurate; or

“(B) factors exist that mitigate the risk of flooding, including ditches, banks, walls, vegetation, levees, lakes, dams, reservoirs, basin, retention ponds, and other natural or manmade topographical features.

“(3) **APPEALS PROCESS.**—

“(A) **ADMINISTRATIVE ADJUDICATION.**—An appeal under this subsection shall be determined by a final adjudication on the record, and after opportunity for an administrative hearing.

“(B) RIGHTS UPON ADVERSE DECISION.—If an appeal pursuant to subparagraph (A) does not result in a decision in favor of the State, local government, owner, or lessee, such party may appeal the adverse decision to the Scientific Resolution Panel provided for in section 1363A, which shall recommend a non-binding decision to the Administrator.

“(4) RELIEF.—

“(A) WHOLLY SUCCESSFUL APPEALS.—In the case of a successful appeal resulting in a policyholder’s property being removed from a special flood hazard area, such policyholder may cancel the policy at any time within the current policy year, and the Administrator shall provide such policyholder a refund in the amount of any premiums paid for such policy year, plus any premiums paid for flood insurance coverage that the policyholder was required to purchase or maintain during the 2-year period preceding such policy year.

“(B) PARTIALLY SUCCESSFUL APPEALS.—In the case of any appeal in which mitigating factors were determined to have reduced, but not eliminated, the risk of flooding, the Administrator shall reduce the amount of flood insurance coverage required to be maintained for the property concerned by the ratio of the successful portion of the appeal as compared to the entire appeal. The Administrator shall refund to the policyholder any payments made in excess of the amount necessary for such new coverage amount, effective from the time when the mitigating factor was created or the beginning of the second policy year preceding the determination of the appeal, whichever occurred later.

“(C) ADDITIONAL RELIEF.—The Administrator may provide additional refunds in excess of the amounts specified in subparagraphs (A) and (B) if the Administrator determines that such additional amounts are warranted.

“(5) RECOVERY OF COSTS.—When, incident to any appeal which is successful in whole or part regarding the designation of the base flood elevation or any aspect of the flood map, including elevation or designation of a special flood hazard area, the community, or the owner or lessee of real property, as the case may be, incurs expense in connection with the appeal, including services provided by surveyors, engineers, and scientific experts, the Administrator shall reimburse such individual or community for reasonable expenses to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal, but not including legal services, in the effecting of an appeal based on a scientific or technical error on the part of the Federal Emergency Management Agency. No reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. The Administrator may use such amounts from the National Flood Insurance Fund established under section 1310 as may be necessary to carry out this paragraph.

“(6) INAPPLICABILITY TO COMMUNITY FLOOD MAPS.—This subsection shall not apply with respect to any flood map that is in effect pursuant to certification under the standards, guidelines, and procedures established pursuant to section 100215(m)(1)(B) of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4101a(m)(1)(B)).

“(7) GUIDANCE.—The Administrator shall issue guidance to implement this subsection, which shall not be subject to the notice and comment requirements under section 553 of title 5, United States Code.”

(b) DEADLINE.—The Administrator of the Federal Emergency Management Agency shall issue the guidance referred to section 1360(k)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(k)(7)), as added by the amendment made by subsection (a) of this section, not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 303. APPEALS AND PUBLICATION OF PROJECTED SPECIAL FLOOD HAZARD AREAS.

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

(1) in subsection (b), by striking the second sentence and inserting the following: “Any owner or lessee of real property within the community who believes the owner’s or lessee’s rights to be adversely affected by the Administrator’s proposed determination may appeal such determination to the local government no later than 90 days after the date of the second publication.”;

(2) in subsection (d), by striking “subsection (e)” and inserting “subsection (f)”;

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

(4) by inserting after subsection (d) the following new subsection:

“(e) DETERMINATION BY ADMINISTRATOR IN THE ABSENCE OF APPEALS.—If the Administrator has not received any appeals, upon expiration of the 90-day appeal period established under subsection (b) of this section the Administrator’s proposed determination shall become final. The community shall be given a reasonable time after the Administrator’s final determination in which to adopt local land use and control measures consistent with the Administrator’s determination.”.

(b) PUBLICATION.—Subsection (a) of section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(a)) is amended by striking “in the Federal Register”.

(c) INAPPLICABILITY TO PRIVATE AND COMMUNITY FLOOD MAPS.—Section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104), as amended by the preceding provisions of this section, is further amended by adding at the end the following new subsection:

“(i) INAPPLICABILITY TO COMMUNITY FLOOD MAPS.—This section shall not apply with respect to any flood map that is in effect pursuant to certification under the standards, guidelines, and procedures established pursuant to section 100215(m)(1) of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4101a(m)(1)), which shall include procedures for providing notification and appeal rights to individuals within the communities of the proposed flood elevation determinations.”.

SEC. 304. COMMUNICATION AND OUTREACH REGARDING MAP CHANGES.

Paragraph (1) of section 100216(d) of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4101b(d)(1)) is amended—

- (1) in subparagraph (B), by inserting “maximum” before “30-day period”; and
- (2) in subparagraph (C), by inserting “maximum” before “30-day period”.

SEC. 305. SHARING AND USE OF MAPS AND DATA.

Subsection (b) of section 100216 of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4101b(b)) is amended—

- (1) in paragraph (1)—
 - (A) in subparagraph (B), by striking “and” at the end;
 - (B) in subparagraph (C), by striking the period at the end and inserting “; and”; and
 - (C) by adding at the end the following new subparagraph:
 - “(D) consult and coordinate with the Department of Defense, the United States Geological Survey, and the National Oceanic and Atmospheric Administration for the purpose of obtaining the most-up-to-date maps and other information of such agencies, including information on topography, water flow, and any other issues, relevant to mapping for flood insurance purposes.”; and
- (2) in paragraph (3)—
 - (A) in subparagraph (D), by striking “and” at the end;
 - (B) by redesignating subparagraph (E) as subparagraph (F); and
 - (C) by inserting after subparagraph (D) the following new subparagraph:
 - “(E) any other information relevant to mapping for flood insurance purposes obtained pursuant to paragraph (1)(D); and”.

TITLE IV—PROTECTING CONSUMERS AND INDIVIDUALS THROUGH IMPROVED MITIGATION

SEC. 401. PROVISION OF COMMUNITY RATING SYSTEM PREMIUM CREDITS TO MAXIMUM NUMBER OF COMMUNITIES PRACTICABLE.

Subsection (b) of section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022(b)) is amended—

- (1) in paragraph (2), by striking “may” and inserting “shall”; and
- (2) in paragraph (3), by inserting “, and the Administrator shall provide credits to the maximum number of communities practicable” after “under this program”.

TITLE V—PROGRAM INTEGRITY

SEC. 501. INDEPENDENT ACTUARIAL REVIEW.

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

“(e) INDEPENDENT ACTUARIAL REVIEW.—

“(1) FIDUCIARY RESPONSIBILITY.—The Administrator has a responsibility to ensure that the National Flood Insurance Program remains financially sound. Pursuant to this responsibility, the Administrator shall from time to time review and eliminate nonessential costs and positions within the Program, unless otherwise authorized or required by law, as the Administrator determines to be necessary.

“(2) ANNUAL INDEPENDENT ACTUARIAL STUDY.—The Administrator shall provide for an independent actuarial study of the National Flood Insurance Program to be conducted annually, which shall analyze the financial position of the program based on the long-term estimated losses of the program. The Administrator shall submit a report (together with the independent actuarial study) annually to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the results of such study, including a determination of whether the Program has collected revenue sufficient to cover the administrative expenses of carrying out the flood insurance program, which are reflected in the risk premium rates, cost of capital, all other costs associated with the transfer of risks, and expected claims payments during the reporting period, and an overall assessment of the financial status of the Program.

“(3) DETERMINATION OF ACTUARIAL BUDGET DEFICIT.—

“(A) REQUIREMENT.—Within the report submitted under paragraph (2), the Administrator shall issue a determination of whether there exists an actuarial budget deficit for the Program for the year covered in the report. The report shall recommend any changes to the Program, if necessary, to ensure that the program remains financially sound.

“(B) BASIS OF DETERMINATION.—The determination required by subparagraph (A) shall be based solely upon whether the portion of premiums estimated and collected by the Program during the reporting period is sufficient to cover the administrative expenses of carrying out the flood insurance program, which are reflected in the risk premium rates, cost of capital, all other costs associated with the transfer of risk, and expected claims payments for the reporting period.

“(4) QUARTERLY REPORTS.—During each fiscal year, on a calendar quarterly basis, the Secretary shall cause to be published in the Federal Register or comparable method, with notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, information which shall specify—

“(A) the cumulative volume of policies that have been underwritten under the National Flood Insurance Program during such fiscal year through the end of the quarter for which the report is submitted;

“(B) the types of policies insured, categorized by risk;

“(C) any significant changes between actual and projected claim activity;

“(D) projected versus actual loss rates;

“(E) the cumulative number of currently insured repetitive-loss properties, severe repetitive-loss properties, and extreme repetitive-loss properties that have been identified during such fiscal year through the end of the quarter for which the report is submitted;

“(F) the cumulative number of properties that have undergone mitigation assistance, through the National Flood Insurance Program, during such fiscal year through the end of the quarter for which the report is submitted; and

“(G) the number and location, by State or territory, of each policyholder that has been identified for such fiscal year as an eligible household for purposes of the flood insurance affordability program under section 1326.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2018, or on the last day of the first full calendar quarter following the enactment of the 21st Century Flood Reform Act, whichever occurs later.”.

SEC. 502. ADJUSTMENTS TO HOMEOWNER FLOOD INSURANCE AFFORDABILITY SURCHARGE.

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

(1) in subsection (a), by striking the first sentence and inserting the following: “The Administrator shall impose and collect a non-refundable annual surcharge, in the amount provided in subsection (b), on all policies for flood insurance coverage under the National Flood Insurance Program that are newly issued or renewed after the date of the enactment of this section.”; and

(2) by striking subsection (b) and inserting the following new subsection:

“(b) AMOUNT.—The amount of the surcharge under subsection (a) shall be \$40, except as follows:

“(1) NON-PRIMARY RESIDENCES ELIGIBLE FOR PRP.—The amount of the surcharge under subsection (a) shall be \$125 in the case of in the case of a policy for any property that is—

“(A) a residential property that is not the primary residence of an individual, and

“(B) eligible for preferred risk rate method premiums.

“(2) NON-RESIDENTIAL PROPERTIES AND NON-PRIMARY RESIDENCES NOT ELIGIBLE FOR PRP.—The amount of the surcharge under subsection (a) shall be \$275 in case of in the case of a policy for any property that is—

“(A) a non-residential property; or

“(B) a residential property that is—

“(i) not the primary residence of an individual; and

“(ii) not eligible for preferred risk rate method premiums.”.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to policies for flood insurance coverage under the National Flood Insurance Act of 1968 that are newly issued or renewed after the expiration of the 12-month period beginning on the date of the enactment of this Act.

SEC. 503. NATIONAL FLOOD INSURANCE RESERVE FUND COMPLIANCE.

Section 1310A of the National Flood Insurance Act of 1968 (42 U.S.C. 4017A) is amended—

(1) in subsection (c)(2)(D), by inserting before the period at the end the following: “, including any provisions relating to chargeable premium rates or annual increases of such rates”;

(2) in subsection (c)(3), by striking subparagraph (A) and inserting the following new subparagraph:

“(A) PARITY.—In exercising the authority granted under paragraph (1) to increase premiums, the Administrator shall institute a single annual, uniform rate of assessment for all individual policyholders.”; and

(3) in subsection (d)—

(A) by striking paragraph (1) and inserting the following new paragraph: “(1) IN GENERAL.—Beginning in fiscal year 2018 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved—

“(A) in each fiscal year the Administrator shall place in the Reserve Fund an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b); and

“(B) if in any given fiscal year the Administrator fails to comply with subparagraph (A), for the following fiscal year the Administrator shall increase the rate of the annual assessment pursuant to subsection (c)(3)(A) by at least one percentage point over the rate of the annual assessment pursuant to subsection (c)(3)(A) in effect on the first day of such given fiscal year.”;

(B) in paragraph (2), by inserting before the period at the end the following: “nor to increase assessments pursuant to paragraph (1)(B)”;

(C) in paragraph (3), by inserting before the period at the end the following: “and paragraph (1)(B) shall apply until the fiscal year in which the ratio required under subsection (b) is achieved”.

SEC. 504. DESIGNATION AND TREATMENT OF MULTIPLE-LOSS PROPERTIES.

(a) DEFINITION.—Section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121) is amended—

(1) in subsection (a)—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8) through (15) as paragraphs (7) through (14), respectively; and

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

“(d) MULTIPLE-LOSS PROPERTIES.—

“(1) DEFINITIONS.—As used in this title:

“(A) MULTIPLE-LOSS PROPERTY.—The term ‘multiple-loss property’ means any property that is a repetitive-loss property, a severe repetitive-loss property, or an extreme repetitive-loss property.

“(B) REPETITIVE-LOSS PROPERTY.—The term ‘repetitive-loss property’ means a structure that has incurred flood damage for which two or more separate claims payments of any amount have been made under flood insurance coverage under this title.

“(C) SEVERE REPETITIVE-LOSS PROPERTY.—The term ‘severe repetitive-loss property’ means a structure that has incurred flood damage for which—

“(i) 4 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim

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

“(ii) at least 2 separate claims payments have been made under flood insurance coverage under this title, with the cumulative amount of such claims payments exceeding the value of the structure.

“(D) EXTREME REPETITIVE-LOSS PROPERTY.—The term ‘extreme repetitive-loss property’ means a structure that has incurred flood damage for which at least 2 separate claims have been made under flood insurance coverage under this title, with the cumulative amount of such claims payments exceeding 150 percent of the maximum coverage amount available for the structure.

“(2) TREATMENT OF CLAIMS BEFORE COMPLIANCE WITH STATE AND LOCAL REQUIREMENTS.—The Administrator shall not consider claims that occurred before a structure was made compliant with State and local floodplain management requirements for purposes of determining a structure’s status as a multiple-loss property.”

(b) PREMIUM ADJUSTMENT TO REFLECT CURRENT FLOOD RISK.—

(1) IN GENERAL.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(o) PREMIUM ADJUSTMENT TO REFLECT CURRENT FLOOD RISK.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Administrator shall rate a multiple-loss property that is charged a risk premium rate estimated under section 1307(a)(1) (42 U.S.C. 4014(a)(1)) based on the current risk of flood reflected in the flood insurance rate map in effect at the time of rating.

“(2) ADJUSTMENT FOR EXISTING POLICIES.—For policies for flood insurance under this title in force on the date of the enactment of this Act for properties described in paragraph (1)—

“(A) notwithstanding subsection (e) of this section, the Administrator shall increase risk premium rates by not less than 15 percent each year until such rates comply with paragraph (1) of this subsection; and

“(B) any rate increases required by paragraph (1) shall commence following a claim payment for flood loss under coverage made available this title that occurred after the date of enactment of this Act.”

(2) CONFORMING AMENDMENT.—Section 1307(g)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(2)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

“(B) in connection with a multiple-loss property.”

(c) PRE-FIRM MULTIPLE-LOSS PROPERTY.—

(1) TERMINATION OF SUBSIDY.—Section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended—

(A) in subsection (a)(2)—

(i) by striking subparagraph (C) and inserting the following new subparagraph:

“(C) any extreme repetitive-loss property;”;

(ii) in subparagraph (D), by striking “or”;

(iii) in subparagraph (E)—

(I) in clause (i), by striking “fair”; and

(II) in clause (ii)—

(aa) by striking “fair”; and

(bb) by striking “and” and inserting “or”; and

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

“(F) any repetitive-loss property that has received a claim payment for flood loss under coverage made available under this title that occurred after the date of enactment of this Act; and”; and

(B) by striking subsection (h).

(2) ANNUAL LIMITATION ON PREMIUM INCREASES.—Subsection (e) of section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended—

(A) in paragraph (3), by striking “and” at the end;

(B) in paragraph (4), by striking “described under paragraph (3).” and inserting “estimated under section 1307(a)(1); and”; and

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

“(5) the chargeable risk premium rates for flood insurance under this title for any properties described in subparagraph (F) of section 1307(a)(2) shall be increased by not less than 15 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties estimated under section 1307(a)(1).”

(d) MINIMUM DEDUCTIBLES FOR CERTAIN MULTIPLE-LOSS PROPERTIES.—

(1) CLERICAL AMENDMENT.—The National Flood Insurance Act of 1968, as amended by the preceding provisions of this Act, is further amended—

(A) by transferring subsection (b) of section 1312 (42 U.S.C. 4019(b)) to section 1306 (42 U.S.C. 4013), inserting such subsection at the end of such section, and redesignating such subsection as subsection (f); and

(B) in section 1312 (42 U.S.C. 4019), by redesignating subsection (c) as subsection (b).

(2) CERTAIN MULTIPLE-LOSS PROPERTIES.—Subsection (f) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(e)), as so transferred and redesignated by paragraph (1) of this subsection, is amended adding at the end the following new paragraph:

“(3) CERTAIN MULTIPLE-LOSS PROPERTIES.—Notwithstanding paragraph (1) or (2), the minimum annual deductible for damage to any severe repetitive-loss property or extreme repetitive-loss property shall be not less than \$5,000.”

(e) CLAIM HISTORY VALIDATION.—Beginning not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Administrator of the Federal Emergency Management Agency shall undertake efforts to validate the reasonable accuracy of claim history data maintained pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(f) INCREASED COST OF COMPLIANCE COVERAGE.—Paragraph (1) of section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)(1)) is amended by striking “repetitive loss structures” and inserting “multiple-loss properties”.

(g) AVAILABILITY OF INSURANCE FOR MULTIPLE-LOSS PROPERTIES.—

(1) IN GENERAL.—The National Flood Insurance Act of 1968 is amended by inserting after section 1304 (42 U.S.C. 4011) the following new section:

“SEC. 1304A. AVAILABILITY OF INSURANCE FOR MULTIPLE-LOSS PROPERTIES.

“(a) DATE AND INFORMATION IDENTIFYING CURRENT FLOOD RISK.—The Administrator may provide flood insurance coverage under this title for a multiple-loss property only if the owner of the property submits to the Administrator such data and information necessary to determine such property’s current risk of flood, as determined by the Administrator, at the time of application for or renewal of such coverage.

“(b) REFUSAL TO MITIGATE.—

“(1) IN GENERAL.—Except as provided pursuant to paragraph (2), the Administrator may not make flood insurance coverage available under this title for any extreme repetitive-loss property for which a claim payment for flood loss was made under coverage made available under this title that occurred after the date of enactment of the 21st Century Flood Reform Act if the property owner refuses an offer of mitigation for the property under section 1366(a)(2) (42 U.S.C. 4104c(a)(2)).

“(2) EXCEPTIONS; APPEALS.—The Director shall develop guidance to provide appropriate exceptions to the prohibition under paragraph (1) and to allow for appeals to such prohibition.”

(2) EFFECTIVE DATE.—Section 1304A of the National Flood Insurance Act of 1968, as added by paragraph (1) of this subsection, shall apply beginning upon the expiration of the 12-month period beginning on the date of the enactment of this Act.

(h) RATES FOR PROPERTIES NEWLY MAPPED INTO AREAS WITH SPECIAL FLOOD HAZARDS.—Subsection (i) of section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(i)) is amended—

(1) by striking the subsection designation and all that follows through “Notwithstanding” and inserting the following:

“(i) RATES FOR PROPERTIES NEWLY MAPPED INTO AREAS WITH SPECIAL FLOOD HAZARDS.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the left margins of such subparagraphs, as so redesignated, and the matter following subparagraph (B), 2 ems to the right; and

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

“(2) INAPPLICABILITY TO MULTIPLE-LOSS PROPERTIES.—Paragraph (1) shall not apply to multiple-loss properties.”

(i) CLEAR COMMUNICATION OF MULTIPLE-LOSS PROPERTY STATUS.—

(1) IN GENERAL.—Subsection (1) of section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(1)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

“(2) MULTIPLE-LOSS PROPERTIES.—Pursuant to paragraph (1), the Administrator shall clearly communicate to all policyholders for multiple-loss properties

- the effect on the premium rates charged for such a property of filing any further claims under a flood insurance policy with respect to that property.”
- (j) MITIGATION ASSISTANCE PROGRAM.—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended—
- (1) in subsection (a)—
- (A) in the matter preceding paragraph (1), by inserting after the period at the end of the first sentence the following: “Priority under the program shall be given to providing assistance with respect to multiple-loss properties.”;
- (B) in paragraph (1), by inserting “and” after the semicolon at the end; and
- (C) by striking paragraphs (2) and (3) and inserting the following:
- “(2) to property owners, in coordination with the State and community, in the form of direct grants under this section for carrying out mitigation activities that reduce flood damage to extreme repetitive-loss properties. The Administrator shall take such actions as may be necessary to ensure that grants under this subsection are provided in a manner that is consistent with the delivery of coverage for increased cost of compliance provided under section 1304(b).”;
- (2) in subsection (c)(2)(A)(ii), by striking “severe repetitive loss structures” and inserting “multiple-loss properties”;
- (3) in subsection (d)—
- (A) in paragraph (1)—
- (i) by striking “SEVERE REPETITIVE LOSS STRUCTURES” and inserting “EXTREME REPETITIVE-LOSS PROPERTIES”; and
- (ii) by striking “severe repetitive loss structures” and inserting “extreme repetitive-loss properties”;
- (B) in paragraph (2)—
- (i) by striking “REPETITIVE LOSS STRUCTURES” and inserting “SEVERE REPETITIVE-LOSS PROPERTIES”;
- (ii) by striking “repetitive loss structures” and inserting “severe repetitive-loss properties”; and
- (iii) by striking “90 percent” and inserting “100 percent”;
- (C) by redesignating paragraph (3) as paragraph (4); and
- (D) by inserting after paragraph (2) the following new paragraph:
- “(3) REPETITIVE-LOSS PROPERTY.—In the case of mitigation activities to repetitive-loss properties, in an amount up to 100 percent of all eligible costs.”;
- (4) in subsection (h)—
- (A) by striking paragraphs (2) and (3);
- (B) by striking the subsection designation and all that follows through “shall apply.”; and
- (C) in paragraph (1)—
- (i) by striking “COMMUNITY” and inserting “DEFINITION OF COMMUNITY”;
- (ii) by striking “The” and inserting “For purposes of this section, the”;
- (iii) by redesignating such paragraph as subsection (j);
- (iv) in subparagraph (B), by striking “subparagraph (A)” and inserting “paragraph (1)”;
- (v) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;
- (vi) in paragraph (1), as so redesignated by clause (v) of this subparagraph, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively (and moving the margins two ems to the left); and
- (vii) by moving the left margins of subsection (j) (as so redesignated) and paragraphs (1) and (2), all as so redesignated, two ems to the left; and
- (5) by inserting after subsection (g) the following new subsections:
- “(h) ALIGNMENT WITH INCREASED COST OF COMPLIANCE.—Notwithstanding any provision of law, any funds appropriated for assistance under this title may be transferred to the National Flood Insurance Fund established under section 1310 (42 U.S.C. 4017) for the payment of claims to enable the Administrator to deliver grants under subsection (a)(2) of this section to align with the delivery of coverage for increased cost of compliance for extreme repetitive-loss properties.
- “(i) FUNDING.—
- “(1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of law, assistance provided under this section shall be funded by—
- “(A) \$225,000,000 in each fiscal year, subject to offsetting collections, through risk premium rates for flood insurance coverage under this title, and shall be available subject to section 1310(f);

“(B) any penalties collected under section 102(f) the Flood Disaster Protect Act of 1973 (42 U.S.C. 4012a(f); and

“(C) any amounts recaptured under subsection (e) of this section.

The Administrator may not use more than 5 percent of amounts made available under this subsection to cover salaries, expenses, and other administrative costs incurred by the Administrator to make grants and provide assistance under this section.

“(2) AVAILABILITY.—Amounts appropriated pursuant to this subsection for any fiscal year may remain available for obligation until expended.”

(k) REPEAL.—Section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d) is repealed.

SEC. 505. ELIMINATION OF COVERAGE FOR PROPERTIES WITH EXCESSIVE LIFETIME CLAIMS.

Section 1305 of the National Flood Insurance Act of 1968 (42 U.S.C. 4012) is amended by adding at the end the following new subsection:

“(e) PROHIBITION OF COVERAGE FOR PROPERTIES WITH EXCESSIVE LIFETIME CLAIMS.—After the expiration of the 18-month period beginning on the date of the enactment of this subsection, the Administrator may not make available any new or renewed coverage for flood insurance under this title for any multiple-loss property for which the aggregate amount in claims payments that have been made after the expiration of such period under flood insurance coverage under this title exceeds twice the amount of the replacement value of the structure.”

SEC. 506. ADDRESSING TOMORROW'S HIGH-RISK STRUCTURES TODAY.

(a) IN GENERAL.—The National Flood Insurance Act of 1968 is amended—

(1) in section 1305 (42 U.S.C. 4012), as amended by the preceding provisions of this Act, by adding at the end the following new subsections:

“(f) REDUCING FUTURE RISKS OF THE NATIONAL FLOOD INSURANCE FUND.—

“(1) PROHIBITION OF NEW COVERAGE FOR HIGH-RISK PROPERTIES.—Except as provided in subsection (g) and notwithstanding any other provision of this title, in carrying out the fiduciary responsibility to the National Flood Insurance Program under section 1309(e) (42 U.S.C. 4016(e)) and to reduce future risks to the National Flood Insurance Fund, on or after January 1, 2021, the Administrator may not make available flood insurance coverage under this title as follows:

“(A) NEW STRUCTURES ADDED TO FLOOD HAZARD ZONES.—Any new coverage for any property for which new construction is commenced on or after such date and that, upon completion of such construction, is located in an area having special flood hazards.

“(B) STRUCTURES WITH HIGH-VALUE REPLACEMENT COSTS.—Any new or renewed coverage for any residential property having 4 or fewer residences and a replacement value of the structure, at the time, exclusive of the value of the real estate on which the structure is located, that is equal to or exceeds the amount that is equal to \$1,000,000 multiplied by the number of dwelling units in the structure (as such amount is adjusted pursuant to clause (i)), subject to the following provisions:

“(i) ADJUSTMENT OF AMOUNTS.—The dollar amount in the matter of this subparagraph that precedes this clause (as it may have been previously adjusted) shall be adjusted for inflation by the Administrator upon the expiration of the 5-year period beginning upon the enactment of this subsection and upon the expiration of each successive 5-year period thereafter, in accordance with an inflationary index selected by the Administrator.

“(ii) VALUATION.—The Administrator shall determine the replacement value of a property for purposes of this subparagraph using such valuation methods or indicia as the Administrator determines are reasonably accurate, consistent, reliable, and available for such purposes.

“(2) ACTUARIAL STRUCTURES WITH HIDDEN RISKS.—For any property with risk premium rates estimated under section 1307(a)(1), on or after January 1, 2021, the Administrator shall charge risk premium rates based on the current risk of flood reflected in the flood insurance rate map or comparable risk rating metric in effect at the time a policy is newly issued, unless the newly issued policy covers a property with continuous flood insurance coverage under this title, or upon the renewal of a policy. For all such policy renewals, the Administrator shall increase the risk premium rate in accordance with section 1308(e)(2) until the risk premium rate is equal to the risk of flood reflected in the flood insurance rate map or comparable risk rating metric in effect at the time of renewal.

“(3) IMPLEMENTATION.—The Administrator may implement this subsection without rulemaking, except that any such implementation shall include advance publication of notice in the Federal Register or advance notice by another comparable method, such as posting on an official website of the Administrator.

“(g) AVAILABILITY OF OTHERWISE PROHIBITED FLOOD INSURANCE COVERAGE WHERE PRIVATE MARKET COVERAGE IS UNAVAILABLE.—

“(1) IN GENERAL.—The Administrator may make available flood insurance coverage under this Act for a property described in subparagraph (A) or (B) of subsection (f)(1), notwithstanding subsection (f) of this section, if, within the 30-day period beginning upon submission to the Clearinghouse established pursuant to section 1350 of an application for flood insurance coverage for such property, the Clearinghouse does not provide the applicant with one or more bona fide offers for private flood insurance coverage for such property.

“(2) SURCHARGE.—Any flood insurance coverage made available for a property pursuant to this subsection shall be made available at chargeable premium rates otherwise determined under this title for such property, except that the Administrator shall impose and collect a surcharge for such coverage in an amount equal to 10 percent of such chargeable premium rate, which shall be deposited into the National Flood Insurance Fund established under section 1310.”; and

(2) in section 1306(a)(1) (42 U.S.C. 4013(a)(1)), by inserting “, subject to subsections (f) and (g) of section 1305” before the semicolon at the end.

(b) STUDY OF FLOOD INSURANCE CLEARINGHOUSE.—

(1) IN GENERAL.—The Administrator of the Federal Emergency Management Agency (in this subsection referred to as the “Administrator”) shall conduct a study—

(A) to analyze the feasibility and effectiveness, and problems involved, in establishing, maintaining, and operating a Flood Insurance Clearinghouse in accordance with section 1350 of the National Flood Insurance Act of 1968 (as added by the amendment made by subsection (c) of this section); and

(B) to develop a plan and guidelines for establishment, design, and operation of such a Clearinghouse

(2) REPORT.—Not later than the expiration of the two-year period beginning on the date of the enactment of this Act, the Administrator shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that sets forth the analysis, conclusions, and recommendations resulting from the study under this section. Such report shall include a plan for establishment, design, and operation of the Flood Insurance Clearinghouse, and guidelines for such Clearinghouse, sufficient to provide for commencement of operations of the Clearinghouse under section 1350 of the National Flood Insurance Act of 1968.

(c) ESTABLISHMENT OF CLEARINGHOUSE.—Part C of chapter II of the National Flood Insurance Act of 1968 (42 U.S.C. 4081 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

“SEC. 1350. FLOOD INSURANCE CLEARINGHOUSE.

“(a) ESTABLISHMENT AND OPERATIONS.—Not later than January 1, 2021, the Administrator shall establish and commence operations of a Flood Insurance Clearinghouse (in this section referred to as the ‘Clearinghouse’) in accordance with the report, plan, and guidelines required under section 506(b)(2) of the 21st Century Flood Reform Act.

“(b) PURPOSE.—The Clearinghouse shall be established for the purpose of receiving applications from prospective insureds for flood insurance coverage for properties for which such coverage is prohibited under section 1305(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4012(f)) and for providing to such applicants offers for such coverage from insurers providing private flood insurance (as such term is defined for purposes of section 102(c) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(c)) and, subject to the limitations in this section, for coverage made available under the National Flood Insurance Program.

“(c) FUNCTIONS.—The Clearinghouse shall have as its functions—

“(1) to provide for prospective insureds to submit to the Clearinghouse applications for flood insurance coverage for properties described in subsection (b);

“(2) to determine, with respect to a property identified in an application, the chargeable premium rate for coverage made available under this title;

“(3) with respect to a property identified in an application, to solicit offers of coverage under private flood insurance from providers of such insurance during a reasonable period of time after such application, which offers shall provide terms and conditions of insurance, including deductibles and exclusions, that are sufficient to meet the requirements of section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a); and

“(4) to provide to the applicant for insurance—

“(A) any bona fide offers for private insurance coverage made pursuant to paragraph (3) for the property identified in the application;

“(B) in the case only of a property for which such coverage is authorized pursuant to subsection (g) of section 1305, a bona fide offer for flood insurance coverage made available under this title for the property; and

“(C) information to help the applicant for insurance understand such offers and the limitation under section 1305(g);

“(d) MANAGEMENT AND OPERATION.—The Clearinghouse shall be managed and operated by a third party pursuant to a contract with the Administrator.

“(e) AGREEMENTS.—The Administrator may enter into such agreements with insurers providing private flood insurance coverage as may be necessary for the Clearinghouse to carry out its functions.

“(f) FEES.—The Clearinghouse may charge a fee to applicants to cover administrative costs of the Clearinghouse.

“(g) REPORTS.—The Clearinghouse shall report periodically, as determined by the Administrator, to the Administrator regarding the operations and activities of the Clearinghouse.”.

SEC. 507. PAY FOR PERFORMANCE AND STREAMLINING COSTS AND REIMBURSEMENT.

Section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081), as amended by the preceding provisions of this Act, is further amended by adding at the end the following subsection:

“(g) WRITE YOUR OWN ALLOWANCE AND PROGRAM SAVINGS.—

“(1) ALLOWANCE RATE.—

“(A) LIMITATION.—The allowance paid to companies participating in the Write Your Own Program (as such term is defined in section 1370 (42 U.S.C. 4004)) with respect to a policy for flood insurance coverage made available under this title shall not be greater than 27.9 percent of the chargeable premium for such coverage.

“(B) INAPPLICABILITY.—Subparagraph (A) shall not apply to actual and necessary costs related to section 1312(a) (42 U.S.C. 4019(a)), or to payments deemed necessary by the Administrator.

“(C) IMPLEMENTATION.—The limitation in subparagraph (A) shall be imposed by equal reductions over the 3-year period beginning on the date of the enactment of this subsection.

“(2) PROGRAM SAVINGS.—

“(A) IMPLEMENTATION.—The Administrator, within three years of the date of the enactment of this Act, shall reduce the costs and unnecessary burdens for the companies participating in the Write Your Own program by at least half of the amount by which the limitation under paragraph (1)(A) reduced costs compared to the costs as of the date of the enactment of this subsection.

“(B) CONSIDERATION OF SAVINGS.—In meeting the requirement of subparagraph (A), the Administrator shall consider savings including—

“(i) indirect payments by the Administrator of premium;

“(ii) eliminating unnecessary communications requirements;

“(iii) reducing the frequency of National Flood Insurance Program changes;

“(iv) simplifying the flood rating system; and

“(v) other ways of streamlining the Program to reduce costs while maintaining customer service and distribution.”.

SEC. 508. ENFORCEMENT OF MANDATORY PURCHASE REQUIREMENTS.

(a) PENALTIES.—Paragraph (5) of section 102(f) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(5)) is amended by striking “\$2,000” and inserting “\$5,000”.

(b) INSURED DEPOSITORY INSTITUTIONS.—Subparagraph (A) of section 10(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1820(i)(2)(A)) is amended by striking “date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years” and inserting “date of enactment of the 21st Century Flood Reform Act and biennially thereafter”.

(c) CREDIT UNIONS.—Subparagraph (A) of section 204(e)(2) of the Federal Credit Union Act (12 U.S.C. 1784(e)(2)(A)) is amended by striking “date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years” and inserting “date of enactment of the 21st Century Flood Reform Act and annually thereafter”.

(d) GOVERNMENT-SPONSORED ENTERPRISES.—Paragraph (4) of section 1319B(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4521(a)(4)) is amended, in the matter after and below subparagraph (B), by striking “first, third, and fifth annual reports under this subsection required to be

submitted after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994” and inserting “first annual report under this subsection required to be submitted after the expiration of the 1-year period beginning on the date of enactment of the 21st Century Flood Reform Act and every such second annual report thereafter”.

(e) MANDATORY PURCHASE STUDY; GUIDELINES.—

(1) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the implementation and efficacy of the requirements of section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a). Such study shall at minimum consider the following questions:

(i) How effectively do Federal agencies, regulated lending institutions, and Federal entities for lending regulation implement the requirements of section 102 of the Flood Disaster Protection Act of 1973?

(ii) Does the current implementation of Flood Disaster Protection Act of 1973 align with the congressional findings and purposes described in section 2(b) of such Act (42 U.S.C. 4002)?

(iii) What, if any, unintended consequences have resulted from the requirements and implementation of section 102 of such Act?

(B) REPORT.—Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the findings and conclusions of the study conducted pursuant to this paragraph.

(2) GUIDELINES.—The Federal entities for lending regulation (as such term is defined in section 3(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a))), in consultation with the Administrator of the Federal Emergency Management Agency, shall jointly update and reissue the rescinded document of the Administrator entitled “Mandatory Purchase of Flood Insurance Guidelines” (last updated on October 29, 2014). The updated document shall incorporate recommendations made by the Comptroller General pursuant to paragraph (1) of this subsection.

SEC. 509. SATISFACTION OF MANDATORY PURCHASE REQUIREMENT IN STATES ALLOWING ALL-PERILS POLICIES.

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

(1) in subsection (a), by striking “After” and inserting “Subject to subsection (i) of this section, after”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “Each” and inserting “Subject to subsection (i) of this section, each”;

(B) in paragraph (2), by striking “Each” the first place such term appears and inserting “Subject to subsection (i) of this section, A”; and

(C) in paragraph (3), by striking “The” the first place such term appears and inserting “Subject to subsection (i) of this section, the”;

(3) in subsection (e)(1), by striking “If” and inserting “Subject to subsection (i) of this section, if”; and

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

“(i) SATISFACTION OF MANDATORY PURCHASE REQUIREMENT IN STATES ALLOWING ALL-PERILS POLICIES.—

“(1) WAIVERS.—Section 102 shall not apply with respect to residential properties in any State that allows any property insurance coverage that covers ‘all-perils’ except specifically excluded perils that includes coverage for flood perils in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of flood insurance coverage made available under this title with respect to such type of residential property, whichever is less.

“(2) DEFINITIONS, PROCEDURES, STANDARDS.—The Administrator may establish such definitions, procedures, and standards as the Administrator considers necessary for making determinations under paragraph (1).”.

SEC. 510. FLOOD INSURANCE PURCHASE REQUIREMENTS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by the preceding provisions of this Act, is further amended—

(1) in subsection (c)(2)(A), by striking “\$5,000 or less” and inserting the following: “\$25,000 or less, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation by the Administrator upon the expiration of the 5-year period beginning upon the enactment of the 21st Cen-

ture Flood Reform Act and upon the expiration of each successive 5-year period thereafter, in accordance with an inflationary index selected by the Administrator”; and

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

“(j) FLOOD INSURANCE PURCHASE REQUIREMENTS.—Notwithstanding any other provision of law, a State or local government or private lender may require the purchase of flood insurance coverage for a structure that is located outside of an area having special flood hazards.”

SEC. 511. CLARIFICATIONS; DEADLINE FOR APPROVAL OF CLAIMS.

(a) RULES OF CONSTRUCTION.—Part C of chapter II of the National Flood Insurance Act of 1968 (42 U.S.C. 4081 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

“SEC. 1351. RULES OF CONSTRUCTION.

“(a) DEFINITION.—For purposes of this part, the term ‘knowingly’ means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this part.

“(b) ADMINISTRATIVE REMEDY.—A policyholder of a policy for flood insurance coverage made available under this title must exhaust all administrative remedies, including submission of disputed claims to appeal under any appeal process made available by the Administrator, prior to commencing legal action on any disputed claim under such a policy.”

(b) DEADLINE FOR APPROVAL OF CLAIMS.—

(1) IN GENERAL.—Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019), as amended by the preceding provisions of this Act, is further amended—

(A) in subsection (a), by striking “The Administrator” and inserting “Subject to other provisions of this section, the Administrator”; and

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

“(c) DEADLINE FOR APPROVAL OF CLAIMS.—

“(1) IN GENERAL.—The Administrator shall provide that, in the case of any claim for damage to or loss of property under flood insurance coverage made available under this title, an initial determination regarding approval of a claim for payment or disapproval of the claim be made, and notification of such determination be provided to the insured making such claim, not later than the expiration of the 120-day period (as such period may be extended pursuant to paragraph (2)) beginning upon the day on which the policyholder submits a signed proof of loss detailing the damage and amount of the loss. Payment of approved claims shall be made as soon as possible after such approval.

“(2) EXTENSION OF DEADLINE.—The Administrator shall provide that the period referred to in paragraph (1) may be extended by a single additional period of 15 days in cases where extraordinary circumstances are demonstrated. The Administrator shall, by regulation, establish criteria for demonstrating such extraordinary circumstances and for determining to which claims such extraordinary circumstances apply.”

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to any claim under flood insurance coverage made available under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) pending on the date of the enactment of this Act and any claims made after such date of enactment.

SEC. 511. GAO STUDY OF SIMPLIFICATION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of options for simplifying flood insurance coverage made available under the National Flood Insurance Act, which shall include the following:

(1) An analysis of how the administration of the National Flood Insurance Program can be simplified—statutorily, regulatorily, and administratively—for private flood insurance policyholders, companies, agents, mortgage lenders, and flood insurance vendors.

(2) An assessment of ways in which flood insurance coverage made available under the National Flood Insurance Act and the program for providing and administering such coverage may be harmonized with private insurance industry standards.

(3) Identification and analysis of ways in which the structure of the National Flood Insurance Program may be simplified, including analysis of the efficacy and effects each of the following actions:

(A) Eliminating the use of two deductibles under the Program.

(B) Including in claims for flood-damages full replacement cost for property not damaged, but rendered unusable, by the flooding.

(C) Using umbrella policies that allow multiple structures on a property to be insured under the same policy.

(b) REPORT.—Not later than the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the findings and conclusions of the study conducted pursuant to this section.

PURPOSE AND SUMMARY

Introduced by Representative Sean Duffy on June 12, 2017, H.R. 2874, the “21st Century Flood Reform Act,” would achieve reforms to improve the financial stability of the National Flood Insurance Program, to enhance the development of more accurate estimates of flood risk through new technology and better maps, to increase the role of private markets in the management of flood insurance risks, and to provide for alternative methods to insure against flood peril.

BACKGROUND AND NEED FOR LEGISLATION

Floods are among the most frequently occurring and costly natural disasters. Most declarations of federal disasters by the Federal Emergency Management Agency (FEMA) are related to flooding. Yet despite the frequency and severity of losses that result from flooding, the private insurance market generally did not provide insurance for flooding; when it did, insurance for flood-related damage can be expensive because the properties most at-risk tend to be highly concentrated geographically and the potential risk of economic losses is extremely high.

To supplement the availability of flood insurance in the private market, Congress, in 1968, created the National Flood Insurance Program (NFIP), which is administered by FEMA and provides flood insurance to approximately 5 million policyholders across the country. In exchange for premiums paid by policyholders, NFIP makes federally backed flood insurance available to homeowners and other property owners (for example, businesses, churches, and farmers) in these communities.

Homeowners with mortgages held by federally regulated lenders on property in participating communities identified by FEMA to be in Special Flood Hazard Areas are required to purchase flood insurance (mandatory purchase requirement). NFIP coverage limits vary by program (regular or emergency) and property type (for example, residential or nonresidential). In NFIP’s regular program, the maximum coverage limits for residential policyholders are \$250,000 for buildings and \$100,000 for contents. For commercial policyholders (that is, those with policies for nonresidential properties), the maximum coverage limit is \$500,000 per building and \$500,000 for contents owned by the building owner. There is additional coverage for contents owned by the tenants.

Residents and business owners in over 22,000 participating communities across the United States and its territories are able to buy NFIP flood insurance policies through insurance agents and companies that participate as third-party administrators in the “Write Your Own” (WYO) program. The WYO program allows private insurance carriers to issue and service government underwritten and taxpayer backed NFIP policies with no private financial liability from the insurer. Insurance companies that participate

in the WYO program receive an expense allowance for policies they write and the claims they process. In addition, their agents earn a commission for the policies they sell. The federal government, however, retains responsibility for managing the risk and paying claims, as well as covering any litigation costs should a WYO insurer be sued in court.

Property owners can purchase flood insurance through the NFIP only if their communities participate in the NFIP. To participate in the NFIP, a community must agree to abide by certain statutory provisions intended to mitigate the risk of flooding, such as building codes that require new structures built in floodplains (high-risk areas) to be protected against flooding or to be elevated above the 100-year floodplain.

As of June 5, 2017, the NFIP has an outstanding debt of \$24.6 billion borrowed from taxpayers, with roughly \$1.1 billion available cash-on-hand and \$5.825 billion remaining of its total temporary \$30.425 billion Treasury borrowing authority. The NFIP's debt results primarily from its borrowing to pay claims as a result of the Gulf Coast hurricanes in 2005 and Superstorm Sandy in October 2012. This borrowing stems from a structural imbalance in how the NFIP measures and prices for risk, resulting in only 46 percent of premium dollars collected in 2016 being available for the payments of claims. With such a low portion of premiums available to pay claims, the pressure on the NFIP to borrow from taxpayers increases. The NFIP's structural budget crisis has required periodic legislation to increase its borrowing authority, the most recent example of which occurred in January 2013 when Congress increased the NFIP's borrowing authority by \$9.7 billion from \$20.725 billion to its current \$30.425 billion level.

H.R. 2874 reauthorizes the NFIP for five years; provides much needed reforms to ensure it is financially sustainable; enhances incentives and approaches to reduce future flood damages and vulnerabilities; and, ensures that a greater portion of premiums collected are available to pay claims that ultimately result in better protection for taxpayers who have repeatedly backstopped the program.

Instead of operating on an actuarial basis, the NFIP operates on a series of explicit and implicit subsidies, allowing some to pay less while many pay more than their actual flood risk would require. Meanwhile, there is high customer dissatisfaction with the NFIP's operations and flood map approval. Claims payments have remained high; and, over time there has been a disproportionate growth in the amount and number of claims with each new storm and the flood damage that follows.

Through a series of incremental reforms, such as moving the program towards risk based rates, ensuring the proper maintenance of the program's reserve fund, addressing properties that perpetually flood, and providing more transparency to the mapping process, H.R. 2874 will help protect taxpayers and restore the NFIP's financial ledger and provide certainty to the flood insurance marketplace over the next five years.

HEARINGS

The Committee on Financial Services' Subcommittee on Housing & Insurance held two hearings examining matters relating to H.R.

2874 on March 9, 2017 and March 16, 2017. The Committee on Financial Services held a hearing examining matters relating to H.R. 2874 on June 7, 2017.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 15, 2017 to consider H.R. 2874. Sundry amendments were considered and adopted as described below. The Committee ordered H.R. 2874 to be reported favorably to the House, as amended, by a recorded vote of 30 ayes and 26 nays (recorded vote no. FC-63), a quorum being present.

Before the motion to report was offered, the Committee adopted by voice vote an amendment offered by Mr. Duffy (no. 1) and an amendment offered by Ms. Moore (no. 8). As described below, the Committee also adopted an amendment by Ms. Tenney (no. 7) by recorded vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. Amendments were disposed of as follows:

Heck Amendment (no. 2) was not agreed to by a vote of 26 yeas and 29 nays (Recorded vote no. FC-59)

Crist Amendment (no. 6) was not agreed to by a vote of 26 yeas and 30 nays (Recorded vote no. FC-60)

Tenney Amendment (no. 7) was agreed to by a recorded vote of 31 yeas and 25 nays (Recorded vote no. FC-61)

Waters Amendment in the Nature of a Substitute (no. 9) was not agreed to by a recorded vote of 25 yeas and 31 nays (Recorded vote no. FC-62)

Present	Representative	Yeas	Nays
	Mr. HENSARLING, <i>Chairman</i>		✓
	Mr. McHENRY		✓
	Mr. KING	✓	
	Mr. ROYCE		✓
	Mr. LUCAS		✓
	Mr. PEARCE		✓
	Mr. POSEY		✓
	Mr. LUETKEMEYER		✓
	Mr. HUIZENGA		✓
	Mr. DUFFY		✓
	Mr. STIVERS		✓
	Mr. HULTGREN		✓
	Mr. ROSS		✓
	Mr. PITTENGER		✓
	Mrs. WAGNER		✓
	Mr. BARR		✓
	Mr. ROTHFUS		✓
	Mr. MESSER		✓
	Mr. TIPTON		✓
	Mr. WILLIAMS		✓
	Mr. POLIQUIN		✓
	Mrs. LOVE		✓
	Mr. HILL		✓
	Mr. EMMER		✓
	Mr. ZELDIN		✓
	Mr. TROTT		✓
	Mr. LOUDERMILK		✓
	Mr. MOONEY		✓
	Mr. MACARTHUR		✓
	Mr. DAVIDSON		✓
	Mr. BUDD		✓
	Mr. KUSTOFF		✓
	Ms. TENNEY		✓
	Mr. HOLLINGSWORTH		✓
	Ms. WATERS, <i>Ranking Member</i>		✓
	Mrs. MALONEY		✓
	Ms. VELÁZQUEZ		✓
	Mr. SHERMAN		✓
	Mr. MEEKS		✓
	Mr. CAPUANO		✓
	Mr. CLAY		✓
	Mr. LYNCH		✓
	Mr. SCOTT		✓
	Mr. GREEN		✓
	Mr. CLEAVER		✓
	Ms. MOORE		✓
	Mr. ELLISON		✓
	Mr. PERLMUTTER		✓
	Mr. HIMES		✓
	Mr. FOSTER		✓
	Mr. KILDEE		✓
	Mr. DELANEY		✓
	Ms. SINEMA		✓
	Mrs. BEATTY		✓
	Mr. HECK		✓
	Mr. VARGAS		✓
	Mr. GOTTHEIMER		✓
	Mr. GONZALEZ		✓
	Mr. CRIST		✓
	Mr. KIHUEN		✓

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Measure HR 2874

Amendment No. 2

Offered by: HECK 007

Agreed To	Yes	No	Wdm
		✓	

Voice Vote	Yeas	Nays	Prsnt
	26	29	

Record vote no. FC-59

Present	Representative	Yeas	Nays
	Mr. HENSARLING, <i>Chairman</i>		✓
	Mr. MCHENRY		✓
	Mr. KING	✓	
	Mr. ROYCE		✓
	Mr. LUCAS		✓
	Mr. PEARCE		✓
	Mr. POSEY		✓
	Mr. LUETKEMEYER		
	Mr. HUIZENGA		✓
	Mr. DUFFY		✓
	Mr. STIVERS		✓
	Mr. HULTGREN		✓
	Mr. ROSS		✓
	Mr. PITTENGER		✓
	Mrs. WAGNER		✓
	Mr. BARR		✓
	Mr. ROTHFUS		✓
	Mr. MESSER		✓
	Mr. TIPTON		✓
	Mr. WILLIAMS		✓
	Mr. POLIQUIN		✓
	Mrs. LOVE		✓
	Mr. HILL		✓
	Mr. EMMER		✓
	Mr. ZELDIN		✓
	Mr. TROTT		✓
	Mr. LOUDERMILK		
	Mr. MOONEY		✓
	Mr. MACARTHUR		✓
	Mr. DAVIDSON		✓
	Mr. BUDD		✓
	Mr. KUSTOFF		✓
	Ms. TENNEY		✓
	Mr. HOLLINGSWORTH		✓
	Ms. WATERS, <i>Ranking Member</i>		✓
	Mrs. MALONEY		✓
	Ms. VELÁZQUEZ		✓
	Mr. SHERMAN		✓
	Mr. MEEKS		✓
	Mr. CAPUANO		✓
	Mr. CLAY		✓
	Mr. LYNCH		✓
	Mr. SCOTT		✓
	Mr. GREEN		✓
	Mr. CLEAVER		✓
	Ms. MOORE		✓
	Mr. ELLISON		✓
	Mr. PERLMUTTER		✓
	Mr. HIMES		✓
	Mr. FOSTER		✓
	Mr. KILDEE		✓
	Mr. DELANEY		✓
	Ms. SINEMA		✓
	Mrs. BEATTY		✓
	Mr. HECK		✓
	Mr. VARGAS		✓
	Mr. GOTTHEIMER		✓
	Mr. GONZALEZ		
	Mr. CRIST		✓
	Mr. KIHUEN		✓

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Measure HR 2874

Amendment No. 6

Offered by: Crist 017

Agreed To	Yes	No	Wdm
		✓	

Voice Vote	Yeas	Nays	Prsnt
	26	30	

Record vote no.	FC- 60
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Present	Representative	Yeas	Nays
	Mr. HENSARLING, <i>Chairman</i>	✓	
	Mr. MCHENRY	✓	
	Mr. KING	✓	
	Mr. ROYCE	✓	
	Mr. LUCAS		
	Mr. PEARCE	✓	
	Mr. POSEY	✓	
	Mr. LUETKEMEYER		
	Mr. HUIZENGA	✓	
	Mr. DUFFY	✓	
	Mr. STIVERS	✓	
	Mr. HULTGREN	✓	
	Mr. ROSS	✓	
	Mr. PITTENGER	✓	
	Mrs. WAGNER	✓	
	Mr. BARR	✓	
	Mr. ROTHFUS	✓	
	Mr. MESSER	✓	
	Mr. TIPTON	✓	
	Mr. WILLIAMS	✓	
	Mr. POLIQUIN	✓	
	Mrs. LOVE	✓	
	Mr. HILL	✓	
	Mr. EMMER	✓	
	Mr. ZELDIN	✓	
	Mr. TROTT	✓	
	Mr. LOUDERMILK		
	Mr. MOONEY	✓	
	Mr. MACARTHUR	✓	
	Mr. DAVIDSON	✓	
	Mr. BUDD	✓	
	Mr. KUSTOFF	✓	
	Ms. TENNEY	✓	
	Mr. HOLLINGSWORTH	✓	
	Ms. WATERS, <i>Ranking Member</i>		✓
	Mrs. MALONEY		✓
	Ms. VELÁZQUEZ		✓
	Mr. SHERMAN		✓
	Mr. MEEKS		✓
	Mr. CAPUANO		✓
	Mr. CLAY		✓
	Mr. LYNCH		✓
	Mr. SCOTT		✓
	Mr. GREEN		✓
	Mr. CLEAVER		✓
	Ms. MOORE		✓
	Mr. ELLISON		✓
	Mr. PERLMUTTER		✓
	Mr. HIMES		✓
	Mr. FOSTER		✓
	Mr. KILDEE		✓
	Mr. DELANEY		✓
	Ms. SINEMA		✓
	Mrs. BEATTY		✓
	Mr. HECK		✓
	Mr. VARGAS		✓
	Mr. GOTTHEIMER		✓
	Mr. GONZALEZ		✓
	Mr. CRIST		✓
	Mr. KIHUEN		✓

Committee on Financial Services

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DATE: 6/15/17

Measure HR 2374

Amendment No. 7

Offered by: Tenney 014

Agreed To	Yes	No	Wdm
	✓		

Voice Vote	Yeas	Nays	Prsnt
	31	25	

Record vote no. FC-61

Present	Representative	Yeas	Nays
	Mr. HENSARLING, <i>Chairman</i>		✓
	Mr. McHENRY		✓
	Mr. KING		✓
	Mr. ROYCE		✓
	Mr. LUCAS		
	Mr. PEARCE		✓
	Mr. POSEY		✓
	Mr. LUETKEMEYER		
	Mr. HUIZENGA		✓
	Mr. DUFFY		✓
	Mr. STIVERS		✓
	Mr. HULTGREN		✓
	Mr. ROSS		✓
	Mr. PITTENGER		✓
	Mrs. WAGNER		✓
	Mr. BARR		✓
	Mr. ROTHFUS		✓
	Mr. MESSER		✓
	Mr. TIPTON		✓
	Mr. WILLIAMS		✓
	Mr. POLIQUIN		✓
	Mrs. LOVE		✓
	Mr. HILL		✓
	Mr. EMMER		✓
	Mr. ZELDIN		✓
	Mr. TROTT		✓
	Mr. LOUDERMILK		
	Mr. MOONEY		✓
	Mr. MACARTHUR		✓
	Mr. DAVIDSON		✓
	Mr. BUDD		✓
	Mr. KUSTOFF		✓
	Ms. TENNEY		✓
	Mr. HOLLINGSWORTH		✓
	Ms. WATERS, <i>Ranking Member</i>		✓
	Mrs. MALONEY		✓
	Ms. VELÁZQUEZ		✓
	Mr. SHERMAN		✓
	Mr. MEEKS		✓
	Mr. CAPUANO		✓
	Mr. CLAY		✓
	Mr. LYNCH		✓
	Mr. SCOTT		✓
	Mr. GREEN		✓
	Mr. CLEAVER		✓
	Ms. MOORE		✓
	Mr. ELLISON		✓
	Mr. PERLMUTTER		✓
	Mr. HIMES		✓
	Mr. FOSTER		✓
	Mr. KILDEE		✓
	Mr. DELANEY		✓
	Ms. SINEMA		✓
	Mrs. BEATTY		✓
	Mr. HECK		✓
	Mr. VARGAS		✓
	Mr. GOTTHEIMER		✓
	Mr. GONZALEZ		✓
	Mr. CRIST		✓
	Mr. KIHUEN		✓

Committee on Financial Services

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Measure HR 2874

Amendment No. 9

Offered by: Water-ANS

Agreed To	Yes	No	Wdrn
		✓	

Voice Vote	Yeas	Nays	Prsnt
	25	31	

Record vote no. FC- 62

Present	Representative	Yeas	Nays
	Mr. HENSARLING, <i>Chairman</i>	✓	
	Mr. McHENRY	✓	
	Mr. KING		✓
	Mr. ROYCE	✓	
	Mr. LUCAS		
	Mr. PEARCE	✓	
	Mr. POSEY	✓	
	Mr. LUETKEMEYER		
	Mr. HUIZENGA	✓	
	Mr. DUFFY	✓	
	Mr. STIVERS	✓	
	Mr. HULTGREN	✓	
	Mr. ROSS	✓	
	Mr. PITTINGER	✓	
	Mrs. WAGNER	✓	
	Mr. BARR	✓	
	Mr. ROTHFUS	✓	
	Mr. MESSER	✓	
	Mr. TIPTON	✓	
	Mr. WILLIAMS	✓	
	Mr. POLIQUIN	✓	
	Mrs. LOVE	✓	
	Mr. HILL	✓	
	Mr. EMMER	✓	
	Mr. ZELDIN	✓	
	Mr. TROTT	✓	
	Mr. LOUDERMILK		
	Mr. MOONEY	✓	
	Mr. MACARTHUR	✓	
	Mr. DAVIDSON	✓	
	Mr. BUDD	✓	
	Mr. KUSTOFF	✓	
	Ms. TENNEY	✓	
	Mr. HOLLINGSWORTH	✓	
	Ms. WATERS, <i>Ranking Member</i>		✓
	Mrs. MALONEY		✓
	Ms. VELÁZQUEZ		✓
	Mr. SHERMAN		✓
	Mr. MEEKS		✓
	Mr. CAPUANO		✓
	Mr. CLAY		✓
	Mr. LYNCH		✓
	Mr. SCOTT		✓
	Mr. GREEN		✓
	Mr. CLEAVER		✓
	Ms. MOORE		✓
	Mr. ELLISON		✓
	Mr. PERLMUTTER		✓
	Mr. HIMES		✓
	Mr. FOSTER		✓
	Mr. KILDEE		✓
	Mr. DELANEY		✓
	Ms. SINEMA		✓
	Mrs. BEATTY		✓
	Mr. HECK		✓
	Mr. VARGAS		✓
	Mr. GOTTHEIMER		✓
	Mr. GONZALEZ		✓
	Mr. CRIST		✓
	Mr. KIHUEN		✓

Committee on Financial Services

115th Congress

DATE: 6/15/17

Measure HR 2874

Amendment No. MTA

Offered by: _____

Agreed To	Yes	No	Wdm
	✓		

Voice Vote	Yeas	Nays	Prsnt
	30	26	

Record vote no. FC-63

As Amended

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 2874 will achieve reforms to improve the financial stability of the National Flood Insurance Program, to enhance the development of more accurate estimates of flood risk through new technology and better maps, to increase the role of private markets in the management of flood insurance risks, and to provide for alternative methods to insure against flood peril.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 8, 2017.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2874, the 21st Century Flood Reform Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 2874—21st Century Flood Reform Act

Summary: H.R. 2874 would authorize the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Agency (FEMA), to enter into and renew flood insurance policies through fiscal year 2022. Under current law, that authority will expire after December 8, 2017.

The legislation also would make a number of changes to the NFIP aimed at improving the financial status of the program and encouraging the growth of a private market for flood insurance. CBO estimates that the changes made by this legislation would increase collections from NFIP policyholders but would reduce the number of property owners who purchase insurance through the NFIP. On net, CBO estimates that the changes made by H.R. 2874 would reduce direct spending by \$187 million over the 2018–2027 period. CBO also estimates that enacting H.R. 2874 would increase revenues by about \$4 million over the 2018–2027 period.

H.R. 2874 also would authorize FEMA to perform activities related to the flood insurance program, such as making grants for flood mitigation, administering a state affordability program, updating the process for appealing flood map information, implementing an independent actuarial review of the program, operating a flood insurance clearinghouse, and starting a pilot program for offering community-based flood insurance. The cost of some of those activities would be offset by fees paid by policyholders; however, CBO estimates that implementing other provisions would cost \$75 million over the 2018–2022 period, subject to the appropriation of the authorized and necessary amounts.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues.

CBO estimates that enacting H.R. 2874 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2874 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated Cost to the Federal Government: The budgetary impact of H.R. 2874 would fall within budget function 450, community and regional development (see Table 1).

TABLE 1.—SUMMARY OF ESTIMATED BUDGETARY EFFECTS OF H.R. 2874

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2022	2017– 2027
INCREASES OR DECREASES (–) IN DIRECT SPENDING^a													
Estimated Budget Authority	0	*	–37	–74	–64	–46	–26	–8	10	23	36	–221	–187
Estimated Outlays	0	*	–37	–74	–64	–46	–26	–8	10	23	36	–221	–187
INCREASES IN SPENDING SUBJECT TO APPROPRIATION													
Estimated Authorization Level	0	21	14	14	13	13	13	13	13	13	13	75	140
Estimated Outlays	0	21	14	14	13	13	13	13	13	13	13	75	140

Notes: * = between –\$500,000 and zero; components may not sum to totals because of rounding.

^aCBO estimates that enacting H.R. 2874 also would increase revenues by \$4 million over the 2018–2027 period.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted by the end of fiscal year 2017, that changes in NFIP premiums will begin to go into effect for new and renewed policies in the spring of 2018, and that the authorized and necessary amounts will be appropriated for each fiscal year.

Background

The NFIP was established to encourage property owners to purchase flood insurance if they are located in communities that adopt minimum guidelines for floodplain management and that enforce building codes designed to mitigate damage from floods.

Terms for Coverage. Owners of properties that are located within an area designated as having at least a 1 percent chance of being flooded in any year (known as a Special Flood Hazard Area, or SFHA) and that are financed by a federally regulated lending institution, a government-sponsored enterprise for housing, or a federal lender are required to carry flood insurance. Property owners not receiving financing from those entities or located outside an SFHA may purchase flood insurance at their discretion. Under current law, FEMA is authorized to underwrite the sale and renewal of flood insurance policies through December 8, 2017.

Premiums. Property owners who buy coverage through the NFIP pay annual premiums, which are deposited into the National Flood Insurance Fund (NFIF) and are used to pay flood damage claims submitted by policyholders. Most properties, about 80 percent, are charged a premium based on FEMA's estimate of the expected cost to insure those properties against damage that the property will incur from flooding in an average year (known as actuarial premiums).

The remaining 20 percent of properties insured by the program are charged premiums that are lower than the expected cost of flood damage (known as subsidized premiums). Throughout the program's history, FEMA has charged premiums that are well below actuarial premiums for properties that were built before a community's Flood Insurance Rate Map (FIRM) was completed, or before 1975, whichever was later. FEMA estimates that the owners of those properties, known as pre-FIRM properties, pay average premiums that are about 60 percent to 65 percent of what the actuarial premiums would be. Pre-FIRM properties make up the majority of subsidized properties. A few post-FIRM properties also receive discounted premiums under current law. Certain properties that have been newly mapped into SFHAs are charged lower rates for one year and some other properties located near structures designed to mitigate flooding (such as levees) that are not functional are charged rates as if the structure is fully effective.

Other property owners receive cross-subsidies from other policyholders who are charged premiums above their expected cost.¹ If cross-subsidies completely balance out, they do not create financial risk for taxpayers. CBO estimates that only those policies that are explicitly subsidized will generate insufficient receipts to cover the cost of expected claims and related expenses.

¹For details about premiums, see Congressional Budget Office, *The National Flood Insurance Program: Factors Affecting Actuarial Soundness* (November 2009), www.cbo.gov/publication/41313 and *The National Flood Insurance Program: Financial Soundness and Affordability* (September 2017), www.cbo.gov/publication/53028.

In 2016, premium collections from roughly 5 million policyholders totaled about \$3.5 billion.

Additional Collections From Policyholders. All policyholders also pay two additional fees: a reserve fund assessment equal to 15 percent of their premiums and a surcharge equal to \$25 for policies on primary residences and \$250 for policies on nonprimary residences or commercial properties. Collections from both the assessment and the surcharge are deposited into the NFIP Reserve Fund and are available to pay policyholders' claims.

In 2016, a total of \$919 million from those fees was deposited into the NFIP Reserve Fund.

The NFIP's Ability to Pay Claims and Other Expenses. In addition to policyholders' payments of premiums and fees, the NFIF and the NFIP Reserve Fund are credited with annual appropriations from the Treasury, interest earned on fund balances, and amounts borrowed from the Treasury. For fiscal year 2017, the Congress appropriated \$182 million to the NFIF. In addition the NFIP borrowed and spent \$1.6 billion from the U.S. Treasury in 2017.

The majority of the NFIP's expenses consist of payments for claims resulting from coverage in force. On the basis of the number of subsidized policies, historical experience, and the current level of coverage in force (about \$1.2 trillion), CBO estimates that payments for claims in 2017 will total about 122 percent of the program's receipts (or about \$5.8 billion).² Historically, actual expenses for claims, however, have varied widely by year, ranging from less than 10 percent to almost 800 percent of the premiums collected in a calendar year.

Because of the large subsidy that exists for many policies, CBO estimates that annual expenses will—on average—exceed annual income. In most years since the program began operations, annual appropriations along with premiums and fees have been sufficient to cover the NFIP's annual expenses. Before 2005, the program occasionally had to borrow from the Treasury to meet expenses in years when losses were greater than average; the amounts borrowed were relatively small (less than \$1 billion) and were repaid with interest. The differential grew in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005 and Superstorm Sandy in 2012. Largely because of borrowing to pay for losses in those storms, the NFIP's current debt to the Treasury stands at \$24.6 billion.

Direct spending

Section 109 would provide FEMA with the authority to continue selling and renewing policies through fiscal year 2022. Although that authority would otherwise expire at the end of fiscal year 2017, CBO's baseline projections of spending (consistent with the rules governing baseline projections specified in the Balanced Budget and Emergency Deficit Control Act of 1985) assumes that the program continues. Thus, extending the NFIP's authority to continue its operations under current law would have no effect on direct spending relative to CBO's baseline estimates. Relative to that baseline, CBO estimates that enacting the other changes in

² CBO's baseline estimates for the NFIP were prepared in the spring of 2017. CBO has not yet updated those baseline estimates to account for the hurricanes that made landfall in August and September of 2017.

H.R. 2874 would reduce net direct spending by the NFIP by \$187 million over the 2018–2027 period.

In addition to extending the NFIP's authority to continue to provide insurance, H.R. 2874 would make several changes to the program. Six of those changes would affect direct spending by either adjusting the premiums paid by policyholders or reducing the number of NFIP policies purchased (see Table 2).

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING UNDER H.R. 2874

	By fiscal year, in millions of dollars—											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018– 2022	2018– 2027
INCREASES OR DECREASES (–) IN DIRECT SPENDING												
Premium Increases for Pre-FIRM Properties:												
Estimated Budget Authority	0	–11	–25	–43	–61	–84	–111	–142	–179	–221	–140	–877
Estimated Outlays	0	–11	–25	–43	–61	–84	–111	–142	–179	–221	–140	–877
Surcharge Adjustments:												
Estimated Budget Authority	*	–21	–43	–43	–42	–41	–41	–40	–40	–40	–148	–350
Estimated Outlays	*	–21	–43	–43	–42	–41	–41	–40	–40	–40	–148	–350
Premiums for Subsidized Properties with Multiple Losses:												
Estimated Budget Authority	0	*	*	*	–1	–1	–1	–2	–2	–2	–2	–10
Estimated Outlays	0	*	*	*	–1	–1	–1	–2	–2	–2	–2	–10
Reducing Payments to WYO Companies:												
Estimated Budget Authority	0	–5	–11	–15	–14	–13	–12	–11	–10	–8	–43	–97
Estimated Outlays	0	–5	–11	–15	–14	–13	–12	–11	–10	–8	–43	–97
Eliminating WYO Companies' Noncompete Agreement and Making NFIP Data Available to the Public:												
Estimated Budget Authority	0	1	5	12	21	35	50	69	88	112	39	393
Estimated Outlays	0	1	5	12	21	35	50	69	88	112	39	393
Barring Owners of Certain Properties From Buying NFIP Coverage:												
Estimated Budget Authority	0	0	0	24	50	78	107	136	165	195	74	754
Estimated Outlays	0	0	0	24	50	78	107	136	165	195	74	754
Total Changes:												
Estimated Budget Authority	0	–37	–74	–64	–46	–26	–8	10	23	36	–221	–187
Estimated Outlays	0	–37	–74	–64	–46	–26	–8	10	23	36	–221	–187

Notes: FIRM = Flood Insurance Rate Map; WYO = Write Your Own; NFIP = National Flood Insurance Program.
 * = between –\$500,000 and zero; components may not sum to totals because of rounding.

Some changes would effectively increase the premiums that policyholders pay and thus reduce direct spending. Specifically, those changes would:

- Increase premiums for some pre-FIRM policyholders;
- Adjust the NFIP's surcharge;
- Adjust premiums for subsidized properties that suffer multiple flood losses; and
- Reduce the maximum amount paid to insurers in FEMA's Write Your Own (WYO) program. (Under the program, private insurance companies sell and service NFIP policies.)

Other changes would reduce the number of NFIP policies purchased by property owners and would increase direct spending. Specifically, those changes would:

- Bar owners of certain properties from buying insurance through the NFIP;
- Require FEMA to make certain NFIP data publicly available; and
- Eliminate the noncompete requirement for private insurers currently participating in the NFIP's WYO program.

The remaining changes in the bill would affect the amount of premiums collected and the amount of flood insurance coverage purchased, but would have no net effect on direct spending. Specifically, those changes would:

- Create a flood insurance affordability program;
- Create an option for certain policyholders to pay annual premiums in monthly installments; and
- Eliminate certain cross-subsidies among policyholders in the program.

Changes Affecting NFIP Premiums. CBO estimates that the four provisions that would affect the premiums charged to NFIP policyholders would reduce net direct spending by about \$1.3 billion over the 2018–2027 period. The estimate for each of those policies is based on enacting all of the policies proposed in H.R. 2874 as a comprehensive package.

Premium Increases for Pre-FIRM Properties. Section 101 would require FEMA to increase NFIP premiums for pre-FIRM properties that are primary residences by at least 8 percent each year until the rates are equal to what an actuarial premium would be. Under current law, those premiums are required to increase by at least 5 percent a year until they reach that level. In 2017, policyholders with single-family homes as their primary residence saw premium increases of about 5 percent, and policyholders with multifamily structures as their primary residence saw increases of about 8 percent. Therefore, CBO anticipates that under the bill, single-family primary residences would have higher annual premium increases than under current law.

Based on housing data and current policy information obtained from FEMA, CBO estimates that under the bill, about 330,000 policies would initially be subject to those premium increases. Those policyholders currently pay an average premium of about \$1,800 per year. Under the bill, once subsidies are completely phased out, annual premiums for those policies would be, on average, about 1.5 times greater than those under current law, CBO estimates. Although some policyholders probably would reduce or eliminate coverage because of the increases, any resulting decrease in premium

receipts would, in CBO's estimation, be more than offset by the increased premiums from properties that remained in the program. Therefore, CBO estimates that this provision would, on net, increase NFIP collections (premiums and fees) by \$877 million over the 2018–2027 period.

Surcharge Adjustments. Under H.R. 2874, surcharges for NFIP policies would increase from \$25 to \$40 for primary residences; for commercial properties the surcharge could increase or decrease depending on whether the property is eligible for what FEMA terms a preferred risk policy. Eligible properties would be those that are not in an SFHA and that have had fewer than three NFIP claims in the preceding 10-year period. Under the bill, nonprimary residences that are eligible for a preferred risk policy would have surcharges lowered to \$125, and such residences that are not eligible would have surcharges raised to \$275.

Those changes would affect all NFIP policies, which CBO estimates will total about 5.1 million in 2018. On the basis of the types and numbers of residences in each category, CBO estimates that about 93 percent of policies would face increased surcharges and that those increases would lead to additional net collections of \$350 million over the 2018–2027 period.

Premiums for Subsidized Properties with Multiple Losses. Section 504 would create a new category for NFIP-insured properties that have received claims payments for losses from two or more flood events, termed multiple-loss properties.

The bill would require that premiums for any multiple-loss property that is also a pre-FIRM property be increased by at least 15 percent each year until the premiums equal the actuarial premium or until a flood loss generates a claim payment, at which point the property owner would be charged the actuarial premium. Considering the schedule for phasing out subsidies under current law, CBO estimates that increasing premiums for subsidized properties with multiple losses would, on net, increase NFIP collections by \$10 million over the 2018–2027 period.

Reducing Payments to WYO Companies. Under current law, private insurance companies partner with FEMA through the NFIP's WYO program to sell and service policies in return for a per-policy commission that is used to pay the companies' insurance agents and cover administrative costs. In 2017, the base amount paid to WYO companies was 30.9 percent of the premiums charged to NFIP policyholders. That amount is built into the premiums charged to NFIP policyholders, such that property owners with actuarial policies are charged premiums sufficient to cover the expected cost of any claims plus the amount needed to pay the WYO companies for writing and servicing policies. CBO estimates that, under current law, total payments to WYO companies in 2017 will be about \$1.2 billion.

H.R. 2874 would reduce payments to WYO companies from 30.9 percent to 27.9 percent of the premiums charged to NFIP policyholders. CBO expects that policyholders currently paying actuarial rates would see their premiums slightly reduced. That reduction in the cost of insurance would lead to a small increase in purchases of flood insurance and to existing policyholders retaining their policies longer. That boost in the number of actuarial policies would increase collections from reserve fund assessments and surcharges,

which would generate income above the amount expected to be required for the NFIP to pay claims for the policies.

Furthermore, under the bill, pre-FIRM policyholders being charged subsidized rates would not see a change in their premiums because of this policy. For those policyholders, the decrease in payments to WYO companies would be retained by the NFIP and effectively reduce the government's costs for the policies.

On the basis of information from FEMA and some WYO companies, CBO expects that, under H.R. 2874, some of the smaller WYO companies would choose to leave the program because of the reduction in payments but that most would remain. Policies written and serviced by companies that left the program would be transferred to either other WYO companies or to the NFIP's direct program, which FEMA operates through contractors that write and service policies. According to FEMA, a secondary effect of companies' departure from the WYO program would be the lost marketing opportunities they provide, which could slow purchases of NFIP policies.

Accounting for those varying effects—the reduction in payments to WYO companies, and the corresponding slight increase in purchases and retention of actuarial policies; the lower subsidy for pre-FIRM policies; and slowed purchases of policies—CBO estimates that this provision would reduce spending by \$97 million over the 2018–2027.

Changes That Would Reduce the Number of NFIP Policies Purchased. According to CBO's estimates, provisions of H.R. 2874 that would affect the number of policies purchased through the NFIP would reduce the number in force by about 5.2 million over the 2018–2027 period.³ Fewer than 1 percent (or about 40,000) of those policies would be subsidized. The decline in subsidized policies would contribute to the actuarial soundness of the fund because those policies have expected costs that are greater than the premiums paid. However, the decline in all policies also would eliminate the associated reserve fund assessments and surcharges. Under current law, the average reserve fund assessment is about \$140 per policy, and surcharges are \$25 for primary residence policies and \$250 for commercial or nonprimary residence policies. On balance, CBO estimates, the provisions that would reduce the number of NFIP policies purchased, by reducing the amount of funds collected in reserve fund assessments and surcharges, would increase the program's borrowing to pay claims, a form of direct spending, by about \$1.2 billion over the 2018–2027 period.

Eliminating WYO Companies' Noncompete Agreement and Making NFIP Data Available to the Public. Sections 201 and 202 would eliminate the “noncompete agreement” that WYO companies must adhere to and would require FEMA to make available to the public the information it uses to assess the flood risk to properties. Under current law, insurance companies participating in the WYO program cannot simultaneously sell private flood insurance. Eliminating that restriction would allow WYO companies to use their access to the NFIP's data on premiums for policies on particular properties to set their own rates for those properties and compete

³Polices are purchased through the NFIP on an annual basis. In this estimate, CBO refers to the number of policies purchased as one policy for each year of coverage. Thus, the number of policies purchased over a 10 year span is a different measure from the number of properties covered by the NFIP in any particular year.

with the NFIP. In addition, allowing public access to the NFIP's data would allow other private insurance companies to make use of the information to develop their rates and perhaps offer more competitive plans.

On the basis of information from private insurance providers that have expressed interest in entering the flood insurance market, CBO expects that those provisions would increase the growth of the private flood insurance market. In the agency's estimation, private insurers would compete with the NFIP for properties eligible for preferred risk policies and other properties located outside of SFHAs, and they would probably show interest in some properties located in SFHAs as well. Under the bill, CBO estimates that holders of about 690,000 policies that would have been purchased through the NFIP under current law over the 2018–2027 period would instead choose to buy private flood insurance. No property owners who are subsidized by the NFIP would be expected to be among those leaving the program.

Barring Owners of Certain Properties From Buying NFIP Coverage. Sections 505 and 506 would bar certain property owners from purchasing NFIP insurance. Section 505 would deny coverage for any structure for which lifetime losses (beginning after the law's enactment) are more than two times its replacement value. On the basis of an analysis of information from FEMA about the likelihood of such losses, CBO estimates that this provision would not significantly reduce the number of NFIP policies over the 2018–2027 period.

Section 506 would bar owners of certain newly constructed properties from the NFIP if FEMA can certify that private flood insurance is available to them. Beginning in 2021, that restriction would apply to properties located in an SFHA as well as single-family and multifamily properties with a replacement value of greater than \$1 million per dwelling within the structure, adjusted for inflation every five years. If private insurance options could not be verified, property owners could purchase insurance through the NFIP, but premiums would be subject to a 10 percent surcharge. On average, that surcharge would be about \$60 in 2021, CBO estimates. Using a database of current NFIP policies and housing information from Fannie Mae and Freddie Mac and adjusting for anticipated inflation, CBO estimates that section 506 could affect about 240,000 properties in 2021 that otherwise would have NFIP coverage under current law. The majority (or about 65 percent) of those properties would be newly constructed buildings in SFHAs.

According to multiple insurance companies that have expressed interest in entering the private flood insurance market, companies are most interested in selling flood insurance policies to owners of properties that are outside of SFHAs. Although the companies indicate that they may be interested in providing flood insurance for newly constructed properties in SFHAs, CBO expects that the risk of damage from flooding for many locations is too great for such companies to offer such private insurance over the 2021–2027 period. On balance, CBO estimates that approximately 60,000 (or 25 percent) of all the properties that would be affected by this provision would lack a private flood insurance provider and the owners would continue to purchase their insurance through the NFIP.

CBO estimates that the remaining 180,000 properties that would be affected by section 506 and barred from the NFIP starting in 2021 would either purchase flood insurance through a private provider or would forgo coverage. Over the 2021–2027 period, this provision would eliminate about 4.5 million NFIP policies that would otherwise exist under current law.

Other Provisions. CBO expects that three other provisions of H.R. 2874 would affect the amount of NFIP coverage purchased and the amount of premiums collected but would not affect net direct spending.

Flood Insurance Affordability Program. Section 102 would direct FEMA to implement a state-run affordability program. The program would allow a state to identify households participating in the NFIP that are below certain income thresholds and submit a list of those households to FEMA. The agency would then either cap the premiums charged to those households or limit their annual premium increases. FEMA would then place a surcharge on all other NFIP policies in the state to recoup the funding lost through any subsidies. Because FEMA would have the authority to set the surcharge at any amount, which CBO expects would be relatively small, CBO estimates that enacting this section would have no significant effect on the total NFIP collections from each state.

Monthly Installment of Premiums. Under current law, FEMA must provide certain NFIP policyholders (those who are not required to pay their premiums and fees for flood insurance through an escrow account) the option to pay premiums on either an annual or monthly basis. Because regulations implementing this requirement have not been issued, all such NFIP policyholders currently pay premiums annually.

Section 105 would direct FEMA to allow the policyholders eligible to pay premiums in monthly installments to do so before implementing regulations exist. Under current law, the possibility of paying monthly payments exists for only a small number of policies because most properties are subject to mortgages with a lending institution that requires insurance payments to be paid through escrow accounts. Enacting H.R. 2874 would not change that situation.

The bill would allow FEMA to charge a fee of up to \$50 for each policy each year for policyholders who opt to pay their premiums on a monthly basis. The fee would be used to offset any administrative costs associated with collecting, storing, and processing payments at that interval. Because few policyholders are eligible to pay premiums in monthly installments, CBO estimates this provision would have no significant effect on net direct spending.

Certain Cross-Subsidies. Section 506 would require that certain NFIP cross-subsidies be phased out. Those cross-subsidies allow some properties to be charged premiums that are treated as if they were actuarial but are actually lower than actuarial rates. Because eliminating those cross-subsidies would simultaneously lower premiums for policies that are currently charged higher than actuarial rates and raise premiums for policies that are currently charged lower than actuarial rates, CBO estimates that phasing out those subsidies would have no significant effect on net direct spending.

Revenues

Section 508 would increase, from \$2,000 to \$5,000 per violation, the civil penalty charged to lending institutions for not enforcing the NFIP's mandatory purchase requirement. Based on an analysis of information provided by FEMA about the number of penalties imposed, CBO estimates that enacting H.R. 2874 would increase those penalties by \$4 million over the 2018–2027 period. Those penalties would be recorded in the budget as revenues and would be available to be spent by the NFIP without further appropriation.

Spending subject to appropriation

CBO estimates that, over the 2018–2022 period, implementing H.R. 2874 would cost \$75 million for administrative costs to operate the NFIP, assuming appropriation of the necessary amounts.

Flood Mitigation Assistance. The bill would authorize the appropriation of \$225 million for each fiscal year for FEMA to provide flood mitigation grants to NFIP policyholders. Under the bill, all such spending would be subject to additional fees charged to NFIP policyholders. Consequently, CBO estimates that, subject to appropriation of the authorized amounts, all spending from this provision would be offset by collections from NFIP policyholders.

Other Changes in Discretionary Spending. H.R. 2874 would make a number of other changes that would affect discretionary spending, including updating the flood map appeals process, implementing an independent actuarial review process, having FEMA establish and run a flood insurance clearinghouse, and implementing a pilot program for community-based flood insurance. In addition, administrative costs for the NFIP affordability program would be paid with annual appropriations. Based on an analysis of information provided by FEMA, CBO estimates implementing those provisions would cost \$75 million over the 2018–2022 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that would be subject to those procedures under H.R. 2874 are shown in Table 3.

TABLE 3.—CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 2874 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON MAY 17, 2011

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2022	2017– 2027
	NET INCREASE OR DECREASE (–) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	0	0	–37	–74	–64	–46	–26	–8	10	23	36	–223	–191
Memorandum:													
Changes in Outlays	0	0	–37	–74	–64	–46	–26	–8	10	23	36	–221	–187
Changes in Revenues	0	0	0	0	0	0	0	0	0	0	0	2	4

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 2874 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: H.R. 2874 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Robert Reese; Impact on state, local, and tribal governments: Rachel Austin; Impact on the private sector: Logan Smith.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 2874 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(c)(5) of rule XIII, the Committee states that no provision of H.R. 2874 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee states that H.R. 2874 contains no directed rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

TITLE I—POLICYHOLDER PROTECTION AND INFORMATION

Sec. 101. Annual limitation on premium increase

Decreases the cap on annual rate increases from 18 to 15 percent; and increases the minimum average chargeable risk premium, within a single risk classification, from 5 percent to 8 percent.

Sec. 102. Flood insurance affordability program

Authorizes states to voluntarily create state flood insurance affordability programs that identify and validate eligible owner-occupants of single family 1–4 unit residences who are unable to pay their chargeable risk premium due to family income. Eligibility, validated using existing Federal income eligibility programs as a guideline, is limited to policyholders with incomes below the threshold of the greater of 150 percent of the state poverty level or 60 percent of the state area median income. At a date certain, as defined by FEMA, the state would forward its validated list to FEMA consisting of all eligible policyholders for whom the state is seeking assistance, along with the recommended type of assistance for each policy. Assistance can be in the form of either (1) capping the amount of chargeable risk premium paid, or (2) limiting the amount of premium increase on an annualized basis. FEMA would calculate the value of the aggregate subsidy cost for eligible policyholders within the state, the cost of which would be recouped through an equally distributed surcharge on all other policyholders within that state.

Sec. 103. Disclosure of premium methodology

Requires the FEMA Administrator to develop a transparent public process to explain and engage with the public on its methodology to determine annual risk premium rates for NFIP coverage, six months prior to the effective date of risk premium rates. Annual public forums in each of FEMA's Federal regions are required.

Sec. 104. Consideration of coastal and inland locations in premium rates

Requires the FEMA Administrator, when calculating annual chargeable premium rates, to consider the differences in properties located in local coastal and inland areas.

Sec. 105. Monthly installment payment of premiums

Authorizes the FEMA Administrator to adopt policies and procedures to finalize implementation of the monthly installment payment of premiums provision, initially required by the Homeowner Flood Insurance Affordability Act of 2014.

Sec. 106. Enhanced clear communication of flood risks

Requires the FEMA Administrator to clearly communicate to all policyholders their full flood risks of their property, the number and dollar value of claims that have been filed over the life of a property, and the effect that filing any future claims would have on the cost of insurance for that property.

Sec. 107. Availability of flood insurance information upon request

Requires the FEMA Administrator to make available, upon request of a policyholder, specific data and information related to the policyholder's property or structure, which includes any historical information, claims payments, flood damages, and whether the property may be required to purchase flood insurance due to previous receipt of federal disaster assistance.

Sec. 108. Disclosure of flood risk information upon transfer of property

No new NFIP coverage may be provided for any property unless the appropriate government unit requires, by September 30, 2022, either through statutory action or regulation, that the seller or lessor of such property discloses in writing any actual knowledge to a buyer or lessee of (1) prior flood damage to any building located on the property; (2) prior insurance claims for losses covered under the NFIP or private flood insurance; (3) any previous notification regarding the designation of the property as a repetitive loss or severe repetitive loss property and (4) any Federal legal obligation to obtain and maintain flood insurance.

Sec. 109. Voluntary community-based flood insurance program

The Administrator may carry out a community-based flood insurance pilot program to make available, for purchase by participating communities, a single, community-wide flood insurance policy under the NFIP that (1) covers all residential and non-residential properties within the community and (2) satisfies, for all properties within the community, the NFIP mandatory purchase requirement. Participation by a community in the pilot program shall be entirely voluntary on the part of the community. The Administrator shall ensure that a community-wide flood insurance policy under the pilot program incorporates: (1) a mapping requirement for properties covered by the policy; (2) a cap on premiums; (3) a deductible; (4) certification or accreditation of mitigation infrastructure when available and appropriate, (5) a community audit; (6) the Community Rating System; (7) a method of preventing redundant claims payments by the NFIP in the case of a policyholder who is covered by a community-wide policy and an individual policy obtained through the NFIP; (8) coverage for damage arising from flooding that complies with NFIP standards. The Administrator may establish the demonstration program under this section not later than 180 days after bill enactment and the demonstration program shall terminate on September 30, 2022.

Sec. 110. Extension of the national flood insurance program

Extends the National Flood Insurance Program through September 30, 2022.

TITLE II—INCREASING CONSUMER CHOICE THROUGH PRIVATE MARKET DEVELOPMENT

Sec. 201. Elimination of non-compete requirement

Eliminates the regulatory restriction that currently prevents insurers participating in the NFIP's Write Your Own (WYO) Program from selling both NFIP and private flood insurance policies.

Sec. 202. Public availability of program information

Requires FEMA to develop an open-source data system to allow public access of all information related to assessing flood risk or identifying and establishing flood elevations and premiums, including, where available, data relating to risk on individual properties and loss ratio information and other information identifying losses under the program. Personally identifiable information shall not be made available; the information provided shall be based on data that identifies properties at the zip code or census block level, and shall include the name of the community and state in which the property is located.

Sec. 203. Refund of premiums upon cancellation of policy because of replacement with private flood insurance

Requires FEMA to allow policyholders who cancel their NFIP policies during the middle of the policy term to receive a pro-rata refund on their premiums if the policy is replaced with private flood insurance. Excludes properties that have received any taxpayer-funded mitigation assistance through the NFIP's Increased Cost of Compliance program or if a claim has been paid or is pending under the policy term for which the refund is sought.

Sec. 204. Provision of private flood insurance by mutual aid societies

Amends the National Flood Insurance Act of 1968 to allow the coverage of flood peril provided by mutual aid societies, a group created by common ethical or religious beliefs, to satisfy the flood insurance mandatory purchase requirement.

Sec. 205. GAO study of flood damage savings accounts

Requires the Comptroller General of the United States to conduct a study assessing the feasibility and effectiveness of establishing voluntary flood damage savings accounts to reduce flood insurance premiums and eliminate the need for purchase of flood insurance coverage.

Sec. 206. Demonstration program for flood damage savings account

Requires the FEMA Administrator to submit to Congress a plan for the implantation of a demonstration program to establish voluntary flood damage savings accounts that takes into consideration the analysis, conclusions, and recommendations developed by the Comptroller General of the United States.

TITLE III—MAPPING FAIRNESS

Sec. 301. Use of other risk assessment tools in determining premium rates

Requires the FEMA Administrator to use other risk assessment data and tools, including risk assessment models and scores from appropriate sources, in addition to applicable flood rate maps when determining annual chargeable premium rates.

Sec. 302. Appeals regarding existing flood maps

Creates a new appeals process for States, local governments, or the owners or lessees of real property for whom FEMA has denied

a request to update their FEMA-created map to appeal that decision based on new information regarding base flood elevation levels or other flood mitigating factors. The initial appeals process would be through an agency administrative process, with the possibility of a further appeal to the Scientific Resolution Panel. In cases where the appeal is wholly or partially successful, affected policyholders can cancel an impacted policy and are entitled to a refund on their premiums. Moreover, the appellant is entitled to recover reasonable costs for the successful appeal, not to include legal or contingency fees.

Sec. 303. Appeals and publication of projected special flood hazard areas

Clarifies that the owner or lessee of real estate adversely affected by the FEMA Administrator's determination of flood elevations and special hazard areas may appeal such determination no later than 90 days after the date of the second publication of a flood insurance rate map. Moreover, this provision clarifies that the FEMA Administrator's determination will become final if there are no appeals during the 90 day period following that second publication.

Sec. 304. Communication and outreach regarding map changes

Gives FEMA the ability to expedite the required community notification layover period for communities that wish to accelerate their mapping approval process.

Sec. 305. Sharing and use of maps and data

Requires the FEMA Administrator to consult and coordinate with the Department of Defense, the United States Geological Survey, and the National Oceanic and Atmospheric Administration to obtain the most recent maps and other data relevant to flood maps.

TITLE IV—PROTECTING CONSUMERS AND INDIVIDUALS THROUGH IMPROVED MITIGATION

Sec. 401. Provision of Community Rating System premium credits to maximum number of communities practicable

Requires FEMA to provide communities that have joined its Community Rating System program with appropriate credits in calculating their annual chargeable premium rates when those communities implement or benefit from measures that protect natural and beneficial floodplain functions.

TITLE V—PROGRAM INTEGRITY

Sec. 501. Independent actuarial review

Assigns the FEMA Administrator the statutory responsibility to ensure that the NFIP remains financially sound. Requires the FEMA Administrator to provide for an annual independent actuarial study of the NFIP to analyze the financial position of the program based on its long-term estimated losses. Requires the FEMA Administrator to transmit the results of that report to Congress, along with the FEMA Administrator's determination of whether there exists an actuarial budget deficit for the NFIP for the year covered in the report and any recommended changes to the program to ensure that the program remains financially sound. Addi-

tionally, require the FEMA Administrator to submit quarterly reports to Congress on the changing policyholder composition and risk profile of the NFIP.

Sec. 502. Adjustments to homeowners flood insurance affordability surcharge

Restructures the surcharge originally created by the Homeowner Flood Insurance Affordability Act of 2014 to: (1) increase annual surcharges from \$25 to \$40 for all primary residences; (2) reduce annual surcharge from \$250 to \$125 for non-owner occupied residential properties that are currently subject to Preferred Risk Policy premium rates; and, (3) increase the annual surcharge from \$250 to \$275 for all other non-primary residences.

Sec. 503. National Flood Insurance Reserve Fund compliance

Requires the FEMA Administrator to increase the current National Flood Insurance Reserve Fund assessment rate by 1 percent each year until the NFIP achieves its statutorily mandated reserve ratio phase-in requirement of not less than 7.5 percent.

Sec. 504. Designation and treatment of multiple-loss properties

Enhances and consolidates the NFIP's ability to manage and track properties with a history of multiple claims by defining a new "multiple-loss property" term to cover all at-risk properties. Multiple-loss property would encompass three types of properties: (1) a revised definition of repetitive-loss property, meaning a property with two more claims of any amount; (2) a revised definition of severe repetitive loss property, meaning a property with 4 or more separate claims payments at \$5,000 each and the cumulative amount of such claims payments exceeding \$20,000, or at least 2 separate claims payments with the cumulative amount of such claims payments exceeding the value of the structure; and, (3) a new definition of "extreme repetitive-loss property," meaning a property that has incurred flood damage for which at least 2 separate claims have been made with the cumulative amount of such claims payments exceeding 150 percent of the maximum coverage amount available for the structure. Any multiple-loss property not currently paying full risk rates shall be subject to a subsidy phase-out at an annual rate of 15 percent per year. Severe repetitive-loss and extreme repetitive loss properties would be subject to a minimum deductible of \$5,000. The Administrator may provide flood insurance coverage for multiple-loss properties only if the owner of the property submits to the Administrator the data and information necessary to determine the property's current risk of flood. The Administrator may deny NFIP coverage if the owner of any extreme repetitive-loss property for which a claim payment for flood was made refuses an offer of mitigation for the property. The Administrator shall clearly communicate to all policyholders for multiple-loss properties the effect on the premium rates charged for the property of filing any further claims with respect to that property. Multiple-loss properties would be eligible for prioritized mitigation assistance through the Flood Mitigation Assistance program, with up to a 100 percent cost share subject to the availability of funds. Authorizes \$225 billion annually for Flood Mitigation Assistance grants.

Sec. 505. Elimination of coverage for properties with excessive lifetime claims

Prospectively prohibits the availability of NFIP coverage of any multiple-loss property with lifetime losses so excessive that the aggregate amount in claims payments, made after enactment of this Act, exceeds twice the amount of the replacement value of the structure.

Sec. 506. Addressing tomorrow's high-risk structures today

Pursuant to his fiduciary duty and responsibility to ensure that the NFIP remain financially sound, requires the FEMA Administrator to no longer make available NFIP coverage for certain high-risk properties after January 1, 2021, that have other available private flood insurance options. The high-risk properties covered by this prohibition include any new structures added to today's high-risk special flood hazard areas, as well 1-4 unit residential structures where the replacement cost of the building (exclusive of the real estate upon which the structure is located) exceeds \$1 million. Creates a private marketplace clearinghouse for flood insurance by directing the FEMA Administrator to study how the agency could create a clearinghouse, report to Congress on its findings, and then implement the development of the clearinghouse. The clearinghouse would allow private flood insurers to offer flood insurance to (1) high-valued structures, and (2) newly built structures that the bill makes ineligible for NFIP. If such properties are unable to find private flood coverage that is sufficient to satisfy the mandatory purchase requirement under the law, then NFIP insurance would be made available for that property, subject to a 10% surcharge. The Administrator must use third-party management to operate the clearing house as well as charge appropriate fees to cover the administrative costs.

Sec. 507. Pay for performance and streamlining costs and reimbursement

The allowance paid to companies participating in the Write Your Own Program shall not be greater than 27.9 percent of the chargeable premium for such coverage. The reduction shall be imposed by equal reductions over the 3-year period beginning on the date of the bill's enactment. Within three years of the bill's enactment, the Administrator shall reduce the costs and unnecessary burdens for the companies participating in the WYO program by at least 1.5%. To meet the reduction, FEMA shall consider savings including (1) indirect payments by the Administrator of premium; (2) eliminating unnecessary communications requirements; (3) reducing the frequency of NFIP changes; (4) simplifying the flood rating system; and (5) other ways of streamlining the NFIP to reduce costs while maintaining customer service and distribution.

Sec. 508. Enforcement of mandatory purchase requirements

Increases the civil money penalties on federally regulated lenders for failure to comply with the NFIP's mandatory purchase requirements from \$2,000 to \$5,000, and require an annual report from federal banking regulators and the GSEs on the compliance of covered lenders with existing mandatory purchase requirements.

Sec. 509. Satisfaction of mandatory purchase requirement in states allowing all-perils policies

Provides for the satisfaction of the NFIP's mandatory purchase requirement for those properties located in a state that adopts a state-based requirement for mandatory "all perils" coverage that includes flood insurance.

Sec. 510. Flood insurance purchase requirements

Updates the existing exception from the NFIP's mandatory purchase requirement under the Flood Disaster Protection Act of 1973 for small dollar loans with a repayment term of 1 year or less from an original outstanding principal balance of \$5,000 or less to an inflation adjusted \$25,000 or less. Additionally, reiterate that nothing in the law prohibits states, localities, and private lenders from requiring the purchase of flood insurance coverage for a structure that is located outside of an area designated by FEMA as a special flood hazard area.

Sec. 511. Clarifications; Deadline for approval of claims

Clarifies the definition of 'knowingly' as having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section. Prior to commencing legal action on any dispute claimed under the NFIP, a policyholder must exhaust all administrative remedies, including submission of disputed claims to appeal. In the case of any claim for damage to or loss of property under the NFIP, the Administrator shall provide that an initial determination regarding approval of a claim for payment or disapproval of the claim be made and notification of the determination be provided to the insured making the claim not later than 120 days beginning upon the day of a signed proof of loss. The 120-day deadline may be extended by a single additional period of 15 days in extraordinary circumstance, as determined by the Administrator.

Sec. 512. GAO study of simplification of National Flood Insurance Program

The Comptroller General shall conduct a study of the options for simplifying flood insurance coverage under the NFIP. The study shall include (1) an analysis of how the administration of the NFIP can be simplified for private flood insurance policyholders, companies, agents, mortgage lenders, and flood insurance vendors; (2) an assessment of ways in which NFIP coverage may be harmonized with private insurance industry standards; (3) identification and analysis of ways in the which the structure of the NFIP may be simplified, including analysis of the effect of eliminating the use of two deductibles under the NFIP, including in claims for flood-damages full replacement cost for property not damaged but rendered unusable by the flooding, and using umbrella policies that allow multiple structures on a property to be insured under the same policy. The GAO shall submit the report to Congress not later than 18 months after the date of enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

NATIONAL FLOOD INSURANCE ACT OF 1968

* * * * *

TITLE XIII—NATIONAL FLOOD INSURANCE

* * * * *

CHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

BASIC AUTHORITY

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

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

(1) properties that are [repetitive loss structures] *multiple-loss properties* ;

(2) properties that are substantially damaged structures;

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

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

(A) section 1366 (Flood Mitigation Assistance Program);

(B) the Hazard Mitigation Grant Program authorized under section 404 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5170c);

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

(D) any programs authorized or for which funds are appropriated to address any unmet needs or for which supplemental funds are made available.

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

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

- (1) appropriate financial participation and risk sharing in the program by insurance companies and other insurers, and
- (2) other appropriate participation on other than a risk-sharing basis, by insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, in accordance with the provisions of chapter II.

SEC. 1304A. AVAILABILITY OF INSURANCE FOR MULTIPLE-LOSS PROPERTIES.

(a) *DATE AND INFORMATION IDENTIFYING CURRENT FLOOD RISK.*—The Administrator may provide flood insurance coverage under this title for a multiple-loss property only if the owner of the property submits to the Administrator such data and information necessary to determine such property's current risk of flood, as determined by the Administrator, at the time of application for or renewal of such coverage.

(b) *REFUSAL TO MITIGATE.*—

(1) *IN GENERAL.*—Except as provided pursuant to paragraph (2), the Administrator may not make flood insurance coverage available under this title for any extreme repetitive-loss property for which a claim payment for flood loss was made under coverage made available under this title that occurred after the date of enactment of the 21st Century Flood Reform Act if the property owner refuses an offer of mitigation for the property under section 1366(a)(2) (42 U.S.C. 4104c(a)(2)).

(2) *EXCEPTIONS; APPEALS.*—The Director shall develop guidance to provide appropriate exceptions to the prohibition under paragraph (1) and to allow for appeals to such prohibition.

SCOPE OF PROGRAM AND PRIORITIES

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

(b) If on the basis of—

- (1) studies and investigations undertaken and carried out and information received or exchanged under section 1307, and
- (2) such other information as may be necessary,

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

- (A) other residential properties not described in subsection (a) or (d),
 - (B) other business properties,
 - (C) agricultural properties,
 - (D) properties occupied by private nonprofit organizations,
- and

(E) properties owned by State and local governments and agencies thereof, and any such extensions of the program to any types and classes of these properties shall from time to time be prescribed in regulations.

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

(1) evidenced a positive interest in securing flood insurance coverage under the flood insurance program, **[and]**

(2) given satisfactory assurance that by December 31, 1971, adequate land use and control measures will have been adopted for the State or area (or subdivision) which are consistent with the comprehensive criteria for land management and use developed under section 1361, and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling flood elevations is available~~].~~; and

(3) given satisfactory assurance that by September 31, 2022, property flood hazard disclosure requirements will have been adopted for the area that meet the requirements of section 1326.

(d) AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.—

(1) IN GENERAL.—The Administrator shall make flood insurance available to cover residential properties of 5 or more residences. Notwithstanding any other provision of law, the maximum coverage amount that the Administrator may make available under this subsection to such residential properties shall be equal to the coverage amount made available to commercial properties.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the ability of individuals residing in residential properties of 5 or more residences to obtain insurance for the contents and personal articles located in such residences.

(e) PROHIBITION OF COVERAGE FOR PROPERTIES WITH EXCESSIVE LIFETIME CLAIMS.—*After the expiration of the 18-month period beginning on the date of the enactment of this subsection, the Administrator may not make available any new or renewed coverage for flood insurance under this title for any multiple-loss property for which the aggregate amount in claims payments that have been made after the expiration of such period under flood insurance coverage under this title exceeds twice the amount of the replacement value of the structure.*

(f) REDUCING FUTURE RISKS OF THE NATIONAL FLOOD INSURANCE FUND.—

(1) PROHIBITION OF NEW COVERAGE FOR HIGH-RISK PROPERTIES.—*Except as provided in subsection (g) and notwithstanding any other provision of this title, in carrying out the fiduciary responsibility to the National Flood Insurance Program under section 1309(e) (42 U.S.C. 4016(e)) and to reduce future risks to the National Flood Insurance Fund, on or after January 1, 2021, the Administrator may not make available flood insurance coverage under this title as follows:*

(A) *NEW STRUCTURES ADDED TO FLOOD HAZARD ZONES.*—Any new coverage for any property for which new construction is commenced on or after such date and that, upon completion of such construction, is located in an area having special flood hazards.

(B) *STRUCTURES WITH HIGH-VALUE REPLACEMENT COSTS.*—Any new or renewed coverage for any residential property having 4 or fewer residences and a replacement value of the structure, at the time, exclusive of the value of the real estate on which the structure is located, that is equal to or exceeds the amount that is equal to \$1,000,000 multiplied by the number of dwelling units in the structure (as such amount is adjusted pursuant to clause (i)), subject to the following provisions:

(i) *ADJUSTMENT OF AMOUNTS.*—The dollar amount in the matter of this subparagraph that precedes this clause (as it may have been previously adjusted) shall be adjusted for inflation by the Administrator upon the expiration of the 5-year period beginning upon the enactment of this subsection and upon the expiration of each successive 5-year period thereafter, in accordance with an inflationary index selected by the Administrator.

(ii) *VALUATION.*—The Administrator shall determine the replacement value of a property for purposes of this subparagraph using such valuation methods or indicia as the Administrator determines are reasonably accurate, consistent, reliable, and available for such purposes.

(2) *ACTUARIAL STRUCTURES WITH HIDDEN RISKS.*—For any property with risk premium rates estimated under section 1307(a)(1), on or after January 1, 2021, the Administrator shall charge risk premium rates based on the current risk of flood reflected in the flood insurance rate map or comparable risk rating metric in effect at the time a policy is newly issued, unless the newly issued policy covers a property with continuous flood insurance coverage under this title, or upon the renewal of a policy. For all such policy renewals, the Administrator shall increase the risk premium rate in accordance with section 1308(e)(2) until the risk premium rate is equal to the risk of flood reflected in the flood insurance rate map or comparable risk rating metric in effect at the time of renewal.

(3) *IMPLEMENTATION.*—The Administrator may implement this subsection without rulemaking, except that any such implementation shall include advance publication of notice in the Federal Register or advance notice by another comparable method, such as posting on an official website of the Administrator.

(g) *AVAILABILITY OF OTHERWISE PROHIBITED FLOOD INSURANCE COVERAGE WHERE PRIVATE MARKET COVERAGE IS UNAVAILABLE.*—

(1) *IN GENERAL.*—The Administrator may make available flood insurance coverage under this Act for a property described in subparagraph (A) or (B) of subsection (f)(1), notwithstanding subsection (f) of this section, if, within the 30-day period begin-

ning upon submission to the Clearinghouse established pursuant to section 1350 of an application for flood insurance coverage for such property, the Clearinghouse does not provide the applicant with one or more bona fide offers for private flood insurance coverage for such property.

(2) *SURCHARGE.*—Any flood insurance coverage made available for a property pursuant to this subsection shall be made available at chargeable premium rates otherwise determined under this title for such property, except that the Administrator shall impose and collect a surcharge for such coverage in an amount equal to 10 percent of such chargeable premium rate, which shall be deposited into the National Flood Insurance Fund established under section 1310.

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 1306. (a) The Administrator shall from time to time, after consultation with the advisory committee authorized under section 1318, appropriate representatives of the pool formed or otherwise created under section 1331, and appropriate representatives of the insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for flood insurance coverage under section 1305, including—

(1) the types, classes, and locations of any such properties which shall be eligible for flood insurance, *subject to subsections (f) and (g) of section 1305* ;

(2) the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;

(3) the classification, limitation, and rejection of any risks which may be advisable;

(4) appropriate minimum premiums;

(5) appropriate loss-deductibles; and

(6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the purposes of this title.

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

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

(A) in the case of residential properties—

(i) \$35,000 aggregate liability for any single-family dwelling, and \$100,000 for any residential structure containing more than one dwelling unit,

(ii) \$10,000 aggregate liability per dwelling unit for any contents related to such unit, and

(iii) in the States of Alaska and Hawaii, and in the Virgin Islands and Guam, the limits provided in clause (i) of this sentence shall be: \$50,000 aggregate liability for any single-family dwelling, and \$150,000 for any residential structure containing more than one dwelling unit;

(B) in the case of business properties which are owned or leased and operated by small business concerns, an ag-

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

(C) in the case of church properties which may become eligible for flood insurance under section 1305—

(i) \$100,000 aggregate liability for any single structure, and

(ii) \$100,000 aggregate liability per unit for any contents related to such unit; and

(2) in the case of any residential building designed for the occupancy of from 1 to 4 families for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i)) of \$250,000;

(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(ii)) of \$100,000;

(4) in the case of any nonresidential building, including a church, for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000, and coverage shall be made available up to a total of \$500,000 aggregate liability for contents owned by the building owner and \$500,000 aggregate liability for each unit within the building for contents owned by the tenant; and

(5) any flood insurance coverage which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1), and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable.

(c) EFFECTIVE DATE OF POLICIES.—

(1) WAITING PERIOD.—Except as provided in paragraph (2), coverage under a new contract for flood insurance coverage

under this title entered into after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, and any modification to coverage under an existing flood insurance contract made after such date, shall become effective upon the expiration of the 30-day period beginning on the date that all obligations for such coverage (including completion of the application and payment of any initial premiums owed) are satisfactorily completed.

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to—

(A) the initial purchase of flood insurance coverage under this title when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan;

(B) the initial purchase of flood insurance coverage pursuant to a revision or updating of floodplain areas or flood-risk zones under section 1360(f), if such purchase occurs during the 1-year period beginning upon publication of notice of the revision or updating under section 1360(h); or

(C) the initial purchase of flood insurance coverage for private property if—

(i) the Administrator determines that the property is affected by flooding on Federal land that is a result of, or is exacerbated by, post-wildfire conditions, after consultation with an authorized employee of the Federal agency that has jurisdiction of the land on which the wildfire that caused the post-wildfire conditions occurred; and

(ii) the flood insurance coverage was purchased not later than 60 days after the fire containment date, as determined by the appropriate Federal employee, relating to the wildfire that caused the post-wildfire conditions described in clause (i).

(d) OPTIONAL HIGH-DEDUCTIBLE POLICIES FOR RESIDENTIAL PROPERTIES.—

(1) AVAILABILITY.—In the case of residential properties, the Administrator shall make flood insurance coverage available, at the option of the insured, that provides for a loss-deductible for damage to the covered property in various amounts, up to and including \$10,000.

(2) DISCLOSURE.—

(A) FORM.—The Administrator shall provide the information described in subparagraph (B) clearly and conspicuously on the application form for flood insurance coverage or on a separate form, segregated from all unrelated information and other required disclosures.

(B) INFORMATION.—The information described in this subparagraph is—

(i) information sufficient to inform the applicant of the availability of the coverage option required by paragraph (1) to applicants for flood insurance coverage; and

(ii) a statement explaining the effect of a loss-deductible and that, in the event of an insured loss, the

insured is responsible out-of-pocket for losses to the extent of the deductible selected.

(e) REFUND OF UNEARNED PREMIUMS FOR POLICIES CANCELED BECAUSE OF REPLACEMENT WITH PRIVATE FLOOD INSURANCE.—

(1) REQUIRED REFUND.—Subject to subsection (c), if at any time an insured under a policy for flood insurance coverage for a property that is made available under this title cancels such policy because other duplicate flood insurance coverage for the same property has been obtained from a source other than the National Flood Insurance Program under this title, the Administrator shall refund to the former insured a portion of the premiums paid for the coverage made available under this title, as determined consistent with industry practice according to the portion of the term of the policy that such coverage was in effect, but only if a copy of declarations page of the new policy obtained from a source other than the program under this title is provided to the Administrator.

(2) EFFECTIVE DATE OF CANCELLATION.—For purposes of this subsection, a cancellation of a policy for coverage made available under the national flood insurance program under this title, for the reason specified in paragraph (1), shall be effective—

(A) on the effective date of the new policy obtained from a source other than the program under this title, if the request for such cancellation was received by the Administrator before the expiration of the 6-month period beginning on the effective date of the new policy; or

(B) on the date of the receipt by the Administrator of the request for cancellation, if the request for such cancellation was received by the Administrator after the expiration of the 6-month period beginning on the effective date of the new policy.

(3) PROHIBITION OF REFUNDS FOR PROPERTIES RECEIVING INCREASED COST OF COMPLIANCE CLAIMS.—No premium amounts paid for coverage made available under this title may be refunded pursuant to this subsection—

(A) with respect to coverage for any property for which measures have been implemented using amounts received pursuant to a claim under increased cost of compliance coverage made available pursuant to section 1304(b); or

(B) if a claim has been paid or is pending under the policy term for which the refund is sought.

[(b)] *(f) MINIMUM ANNUAL DEDUCTIBLE.—*

(1) PRE-FIRM PROPERTIES.—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Administrator under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

(A) \$1,500, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

- (B) \$2,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.
- (2) POST-FIRM PROPERTIES.—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Administrator under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—
- (A) \$1,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and
- (B) \$1,250, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.
- (3) CERTAIN MULTIPLE-LOSS PROPERTIES.—*Notwithstanding paragraph (1) or (2), the minimum annual deductible for damage to any severe repetitive-loss property or extreme repetitive-loss property shall be not less than \$5,000.*

ESTIMATES OF PREMIUM RATES

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

- (1) the risk premium rates for flood insurance which—
- (A) based on consideration of—
- (i) the risk involved and accepted actuarial principles; **[and]**
- (ii) the flood mitigation activities that an owner or lessee has undertaken on a property, including differences in the risk involved due to land use measures, floodproofing, flood forecasting, and similar measures, **[and]**
- (iii) *the differences in flood risk for properties impacted by coastal flood risk and properties impacted by riverine, or inland flood risk; and*
- (iv) *both the risk identified by the applicable flood insurance rate maps and by other risk assessment data and tools, including risk assessment models and scores from appropriate sources; and*
- (B) including—
- (i) the applicable operating costs and allowances set forth in the schedules prescribed under section 1311 and reflected in such rates,
- (ii) any administrative expenses (or portion of such expenses) of carrying out the flood insurance program which, in his discretion, should properly be reflected in such rates,
- (iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360) not included under

clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commissions, company expense allowances, or State or local premium taxes, and

(iv) all costs, as prescribed by principles and standards of practice in ratemaking adopted by the American Academy of Actuaries and the Casualty Actuarial Society, including—

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

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

(III) the costs associated with an individual risk transfer with respect to risk classes, as defined by the Administrator,

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage is available under section 1305(a) (or is recommended to the Congress under section 1305(b));

(2) the rates, if less than the rates estimated under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase flood insurance, and would be consistent with the purposes of this title, and which, together with a fee charged to policyholders that shall not be subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360), except that the Administrator shall not estimate rates under this paragraph for—

(A) any residential property which is not the primary residence of an individual;

(B) any severe repetitive loss property;

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

(C) any extreme repetitive-loss property;

(D) any business property; [or]

(E) any property which on or after the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 has experienced or sustained—

(i) substantial damage exceeding 50 percent of the [fair] market value of such property; or

(ii) substantial improvement exceeding 50 percent of the [fair] market value of such property; [and] or

(F) any repetitive-loss property that has received a claim payment for flood loss under coverage made available under this title that occurred after the date of enactment of this Act; and

(3) the extent, if any, to which federally assisted or other flood protection measures initiated after the date of the enactment of this title affect such rates.

(b) In carrying out subsection (a), the Administrator shall, to the maximum extent feasible and on a reimbursable basis, utilize the

services of the Department of the Army, the Department of the Interior, The Department of Agriculture, the Department of Commerce, and the Tennessee Valley Authority, and, as appropriate, other Federal departments or agencies, and for such purposes may enter into agreements or other appropriate arrangements with any persons.

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

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

(e) Notwithstanding any other provision of law, any community that has made adequate progress, acceptable to the Administrator, on the construction or reconstruction of a flood protection system which will afford flood protection for the one-hundred-year frequency flood as determined by the Administrator, shall be eligible for flood insurance under this title (if and to the extent it is eligible for such insurance under the other provisions of this title) at premium rates not exceeding those which would be applicable under this section if such flood protection system had been completed. The Administrator shall find that adequate progress on the construction or reconstruction of a flood protection system, based on the present value of the completed flood protection system, has been made only if: (1) 100 percent of the cost of the system has been authorized; (2) at least 60 percent of the cost of the system has been appropriated; (3) at least 50 percent of the cost of the system has been expended; and (4) the system is at least 50 percent completed. Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds.

(f) Notwithstanding any other provision of law, this subsection shall apply to riverine and coastal levees that are located in a community which has been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so, and shall apply without regard to the level of Federal funding of or participation in the construction, reconstruction, or improvement of the flood protection system. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the disaccreditation of the flood protection system at premium rates that do not exceed those

which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Administrator for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the disaccreditation of the flood protection system. A community will be considered to be in the process of restoration if—

(1) the flood protection system has been deemed restorable by a Federal agency in consultation with the local project sponsor;

(2) a minimum level of flood protection is still provided to the community by the disaccredited system; and

(3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

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

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

(g) **NO EXTENSION OF SUBSIDY TO NEW POLICIES OR LAPSED POLICIES.**—The Administrator shall not provide flood insurance to prospective insureds at rates less than those estimated under subsection (a)(1), as required by paragraph (2) of that subsection, for—

(1) any policy under the flood insurance program that has lapsed in coverage, unless the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage; or

(2) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—

(A) following a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); or

[(B) in connection with—

[(i) a repetitive loss property; or

[(ii) a severe repetitive loss property.]

(B) in connection with a multiple-loss property.

[(h) DEFINITION.—In this section, the term “severe repetitive loss property” has the following meaning:

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

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

[(B) has incurred flood-related damage—

[(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this chapter, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

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

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

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 1308. (a) On the basis of estimates made under section 1307 and such other information as may be necessary, the Administrator shall from time to time prescribe, after providing notice—

(1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 1305 (at less than the estimated risk premium rates under section 1307(a)(1), where necessary), and

(2) the terms and conditions under which, and the areas (including subdivisions thereof) within which such rates shall apply.

(b) Such rates shall, insofar as practicable, be—

(1) based on a consideration of the respective risks involved, including differences in risks *due to differences in flood risk resulting from coastal flood hazards and riverine, or inland flood hazards and due to land use measures, flood-proofing, flood forecasting, and similar measures, taking into account both the risk identified by the applicable flood insurance rate maps and by other risk assessment data and tools, including risk assessment models and scores from appropriate sources* ;

(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or if less than such amount consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase such insurance and with the purposes of this title;

(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 1307(a), to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360);

(4) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium

rates under section 1307(a)(1) and the estimated rates under section 1307(a)(2); and

(5) adequate, on the basis of accepted actuarial principles, to cover the average historical loss year obligations incurred by the National Flood Insurance Fund.

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

(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Administrator determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Administrator under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e).

(2) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Administrator determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.

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

(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—Except with respect to properties described under paragraph (2) of subsection (c), and notwithstanding any other provision of this title—

(1) the chargeable risk premium rate for flood insurance under this title for any property may not be increased by more than **[18 percent]** *15 percent* each year, except—

(A) as provided in paragraph (4);

(B) in the case of property identified under section 1307(g); or

(C) in the case of a property that—

(i) is located in a community that has experienced a rating downgrade under the community rating system program carried out under section 1315(b);

(ii) is covered by a policy with respect to which the policyholder has—

(I) decreased the amount of the deductible; or

(II) increased the amount of coverage; or

(iii) was misrated;

(2) the chargeable risk premium rates for flood insurance under this title for any properties initially rated under section 1307(a)(2) within any single risk classification, excluding properties for which the chargeable risk premium rate is not less

than the applicable estimated risk premium rate under section 1307(a)(1), shall be increased by an amount that results in an average of such rate increases for properties within the risk classification during any 12-month period of not less than **【5 percent】** *8 percent* of the average of the risk premium rates for such properties within the risk classification upon the commencement of such 12-month period;

(3) the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 15 percent of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period; **【and】**

(4) the chargeable risk premium rates for flood insurance under this title for any properties described in subparagraphs (A) through (E) of section 1307(a)(2) shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties **【described under paragraph (3).】** *estimated under section 1307(a)(1); and*

(5) the chargeable risk premium rates for flood insurance under this title for any properties described in subparagraph (F) of section 1307(a)(2) shall be increased by not less than 15 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties estimated under section 1307(a)(1).

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

(g) FREQUENCY OF PREMIUM COLLECTION.—

(1) *OPTIONS.*—With respect to any chargeable premium rate prescribed under this section, the Administrator shall provide policyholders that are not required to escrow their premiums and fees for flood insurance as set forth under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) with the option of paying their premiums annually or monthly.

(2) *MONTHLY INSTALLMENT PAYMENT OF PREMIUMS.*—

(A) *EXEMPTION FROM RULEMAKING.*—*Until such time as the Administrator promulgates regulations implementing paragraph (1) of this subsection, the Administrator may adopt policies and procedures, notwithstanding any other provisions of law and in alignment and consistent with existing industry escrow and servicing standards, necessary to implement such paragraph without undergoing notice and comment rulemaking and without conducting regulatory analyses otherwise required by statute, regulation, or Executive order.*

(B) *INSTALLMENT PLAN FEE.*—*The Administrator may charge policyholders choosing to pay premiums in monthly installments a fee not to exceed \$50 annually.*

(C) *PILOT PROGRAM.*—*The Administrator may initially implement paragraph (1) of this subsection as a pilot program that provides for a gradual phase-in of implementation.*

(h) **RULE OF CONSTRUCTION.**—For purposes of this section, the calculation of an “average historical loss year”—

(1) includes catastrophic loss years; and

(2) shall be computed in accordance with generally accepted actuarial principles.

(i) **[RATES FOR PROPERTIES NEWLY MAPPED INTO AREAS WITH SPECIAL FLOOD HAZARDS.—] RATES FOR PROPERTIES NEWLY MAPPED INTO AREAS WITH SPECIAL FLOOD HAZARDS.—**

[(1)] [Notwithstanding] (1) IN GENERAL.—*Except as provided in paragraph (2) and notwithstanding subsection (f), the premium rate for flood insurance under this title that is purchased on or after the date of the enactment of this subsection—*

[(1)] (A) on a property located in an area not previously designated as having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in a flood insurance map, becomes designated as such an area; and—

[(2)] (B) where such flood insurance premium rate is calculated under subsection (a)(1) of section 1307 (42 U.S.C. 4014(a)(1)),

shall for the first policy year be the preferred risk premium for the property and upon renewal shall be calculated in accordance with subsection (e) of this section until the rate reaches the rate calculated under subsection (a)(1) of section 1307.

(2) INAPPLICABILITY TO MULTIPLE-LOSS PROPERTIES.—*Paragraph (1) shall not apply to multiple-loss properties.*

(j) **PREMIUMS AND REPORTS.**—In setting premium risk rates, in addition to striving to achieve the objectives of this title the Administrator shall also strive to minimize the number of policies with annual premiums that exceed one percent of the total coverage provided by the policy. For any policies premiums that exceed this one percent threshold, the Administrator shall report such exceptions to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(k) **CONSIDERATION OF MITIGATION METHODS.**—In calculating the risk premium rate charged for flood insurance for a property under this section, the Administrator shall take into account the implementation of any mitigation method identified by the Administrator in the guidance issued under section 1361(d) (42 U.S.C. 4102(d)).

[(1) CLEAR COMMUNICATIONS.—The Administrator shall clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.]

(l) CLEAR COMMUNICATIONS.—

(1) NEWLY ISSUED AND RENEWED POLICIES.—*For all policies for flood insurance coverage under the National Flood Insurance Program that are newly issued or renewed, the Administrator shall clearly communicate to policyholders—*

(A) *their full flood risk determinations, regardless of whether their premium rates are full actuarial rates; and*
 (B) *the number and dollar value of claims filed for the property, over the life of the property, under a flood insurance policy made available under the Program and the effect, under this Act, of filing any further claims under a flood insurance policy with respect to that property.*

(2) *MULTIPLE-LOSS PROPERTIES.—Pursuant to paragraph (1), the Administrator shall clearly communicate to all policyholders for multiple-loss properties the effect on the premium rates charged for such a property of filing any further claims under a flood insurance policy with respect to that property.*

(m) **PROTECTION OF SMALL BUSINESSES, NON-PROFITS, HOUSES OF WORSHIP, AND RESIDENCES.—**

(1) **REPORT.—**Not later than 18 months after the date of the enactment of this section and semiannually thereafter, the Administrator shall monitor and report to Committee on Financial Services of the House Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Administrator's assessment of the impact, if any, of the rate increases required under subparagraphs (A) and (D) of section 1307(a)(2) and the surcharges required under section 1308A on the affordability of flood insurance for—

(A) small businesses with less than 100 employees;

(B) non-profit entities;

(C) houses of worship; and

(D) residences with a value equal to or less than 25 percent of the median home value of properties in the State in which the property is located.

(2) **RECOMMENDATIONS.—**If the Administrator determines that the rate increases or surcharges described in paragraph (1) are having a detrimental effect on affordability, including resulting in lapsed policies, late payments, or other criteria related to affordability as identified by the Administrator, for any of the properties identified in subparagraphs (A) through (D) of such paragraph, the Administrator shall, not later than 3 months after making such a determination, make such recommendations as the Administrator considers appropriate to improve affordability to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(n) **DISCLOSURE OF PREMIUM METHODOLOGY.—**

(1) **DISCLOSURE.—***Six months prior to the effective date of risk premium rates, the Administrator shall cause to be published in the Federal Register an explanation of the bases for, and methodology used to determine, the chargeable premium rates to be effective for flood insurance coverage under this title.*

(2) **ALIGNMENT WITH INDUSTRY PRACTICES.—***The disclosure required under paragraph (1) shall, to the extent practicable, be aligned with industry patterns and practices and shall include information and data recommended by the State insurance commissioners guidelines on rate filings.*

(3) **PUBLIC MEETINGS.—***The Administrator shall, on an annual basis, hold at least one public meeting in each of the geographical regions of the United States, as defined by the Ad-*

ministrator for purposes of the National Flood Insurance Program, for the purpose of explaining the methodology described in paragraph (1) and answering questions and receiving comments regarding such methodology. The Administrator shall provide notice of each such public meeting in advance, in such manner, and in using such means as are reasonably designed to notify interested parties and members of the public of the date and time, location, and purpose of such meeting, and of how to submit questions or comments.

(o) **PREMIUM ADJUSTMENT TO REFLECT CURRENT FLOOD RISK.**—

(1) **IN GENERAL.**—*Except as provided in paragraph (2), the Administrator shall rate a multiple-loss property that is charged a risk premium rate estimated under section 1307(a)(1) (42 U.S.C. 4014(a)(1)) based on the current risk of flood reflected in the flood insurance rate map in effect at the time of rating.*

(2) **ADJUSTMENT FOR EXISTING POLICIES.**—*For policies for flood insurance under this title in force on the date of the enactment of this Act for properties described in paragraph (1)—*

(A) notwithstanding subsection (e) of this section, the Administrator shall increase risk premium rates by not less than 15 percent each year until such rates comply with paragraph (1) of this subsection; and

(B) any rate increases required by paragraph (1) shall commence following a claim payment for flood loss under coverage made available this title that occurred after the date of enactment of this Act.

SEC. 1308A. PREMIUM SURCHARGE.

(a) **IMPOSITION AND COLLECTION.**—**【The Administrator shall impose and collect an annual surcharge, in the amount provided in subsection (b), on all policies for flood insurance coverage under the National Flood Insurance Program that are newly issued or renewed after the date of the enactment of this section.】** *The Administrator shall impose and collect a non-refundable annual surcharge, in the amount provided in subsection (b), on all policies for flood insurance coverage under the National Flood Insurance Program that are newly issued or renewed after the date of the enactment of this section. Such surcharge shall be in addition to the surcharge under section 1304(b) and any other assessments and surcharges applied to such coverage.*

【(b) AMOUNT.—*The amount of the surcharge under subsection (a) shall be—*

【(1) \$25, except as provided in paragraph (2); and

【(2) \$250, in the case of a policy for any property that is—

【(A) a non-residential property; or

【(B) a residential property that is not the primary residence of an individual.】

(b) AMOUNT.—*The amount of the surcharge under subsection (a) shall be \$40, except as follows:*

(1) **NON-PRIMARY RESIDENCES ELIGIBLE FOR PRP.**—*The amount of the surcharge under subsection (a) shall be \$125 in the case of in the case of a policy for any property that is—*

(A) a residential property that is not the primary residence of an individual, and

(B) eligible for preferred risk rate method premiums.

(2) *NON-RESIDENTIAL PROPERTIES AND NON-PRIMARY RESIDENCES NOT ELIGIBLE FOR PRP.*—The amount of the surcharge under subsection (a) shall be \$275 in case of in the case of a policy for any property that is—

(A) a non-residential property; or

(B) a residential property that is—

(i) not the primary residence of an individual; and

(ii) not eligible for preferred risk rate method premiums.

(c) *TERMINATION.*—Subsections (a) and (b) shall cease to apply on the date on which the chargeable risk premium rate for flood insurance under this title for each property covered by flood insurance under this title, other than properties for which premiums are calculated under subsection (e) or (f) of section 1307 or section 1336 of this Act (42 U.S.C. 4014, 4056) or under section 100230 of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4014 note), is not less than the applicable estimated risk premium rate under section 1307(a)(1) for such property.

FINANCING

SEC. 1309. (a) All authority which was vested in the Housing and Home Finance Administrator by virtue of section 15(e) of the Federal Flood Insurance Act of 1956 (70 Stat. 1084) (pertaining to the issue of notes or other obligations or the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Administrator for the purpose of carrying out the flood insurance program under this title; except that the total amount of notes and obligations which may be issued by the Administrator pursuant to such authority (1) without the approval of the President, may not exceed \$500,000,000, and (2) with the approval of the President, may not exceed \$1,500,000,000 through the date specified in section 1319, and \$1,000,000,000 thereafter; except that, through ~~September 30, 2017~~ *September 30, 2022*, clause (2) of this sentence shall be applied by substituting “\$30,425,000,000” for “\$1,500,000,000”. The Administrator shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at any time when he requests the approval of the President in accordance with the preceding sentence.

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

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

(1) the Secretary of the Treasury;

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

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

(d) In connection with any funds borrowed by the Administrator under the authority established in subsection (a), the Administrator, beginning 6 months after the date on which such funds are

borrowed, and continuing every 6 months thereafter until such borrowed funds are fully repaid, shall submit a report on the progress of such repayment to—

- (1) the Secretary of the Treasury;
- (2) the Committee on Banking, Housing, and Urban Affairs of the Senate; and
- (3) the Committee on Financial Services of the House of Representatives.

(e) *INDEPENDENT ACTUARIAL REVIEW.*—

(1) *FIDUCIARY RESPONSIBILITY.*—*The Administrator has a responsibility to ensure that the National Flood Insurance Program remains financially sound. Pursuant to this responsibility, the Administrator shall from time to time review and eliminate nonessential costs and positions within the Program, unless otherwise authorized or required by law, as the Administrator determines to be necessary.*

(2) *ANNUAL INDEPENDENT ACTUARIAL STUDY.*—*The Administrator shall provide for an independent actuarial study of the National Flood Insurance Program to be conducted annually, which shall analyze the financial position of the program based on the long-term estimated losses of the program. The Administrator shall submit a report (together with the independent actuarial study) annually to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate describing the results of such study, including a determination of whether the Program has collected revenue sufficient to cover the administrative expenses of carrying out the flood insurance program, which are reflected in the risk premium rates, cost of capital, all other costs associated with the transfer of risks, and expected claims payments during the reporting period, and an overall assessment of the financial status of the Program.*

(3) *DETERMINATION OF ACTUARIAL BUDGET DEFICIT.*—

(A) *REQUIREMENT.*—*Within the report submitted under paragraph (2), the Administrator shall issue a determination of whether there exists an actuarial budget deficit for the Program for the year covered in the report. The report shall recommend any changes to the Program, if necessary, to ensure that the program remains financially sound.*

(B) *BASIS OF DETERMINATION.*—*The determination required by subparagraph (A) shall be based solely upon whether the portion of premiums estimated and collected by the Program during the reporting period is sufficient to cover the administrative expenses of carrying out the flood insurance program, which are reflected in the risk premium rates, cost of capital, all other costs associated with the transfer of risk, and expected claims payments for the reporting period.*

(4) *QUARTERLY REPORTS.*—*During each fiscal year, on a calendar quarterly basis, the Secretary shall cause to be published in the Federal Register or comparable method, with notice to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, information which shall specify—*

(A) *the cumulative volume of policies that have been underwritten under the National Flood Insurance Program during such fiscal year through the end of the quarter for which the report is submitted;*

(B) *the types of policies insured, categorized by risk;*

(C) *any significant changes between actual and projected claim activity;*

(D) *projected versus actual loss rates;*

(E) *the cumulative number of currently insured repetitive-loss properties, severe repetitive-loss properties, and extreme repetitive-loss properties that have been identified during such fiscal year through the end of the quarter for which the report is submitted;*

(F) *the cumulative number of properties that have undergone mitigation assistance, through the National Flood Insurance Program, during such fiscal year through the end of the quarter for which the report is submitted; and*

(G) *the number and location, by State or territory, of each policyholder that has been identified for such fiscal year as an eligible household for purposes of the flood insurance affordability program under section 1326.*

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2018, or on the last day of the first full calendar quarter following the enactment of the 21st Century Flood Reform Act, whichever occurs later.

* * * * *

SEC. 1310A. RESERVE FUND.

(a) **ESTABLISHMENT OF RESERVE FUND.**—In carrying out the flood insurance program authorized by this chapter, the Administrator shall establish in the Treasury of the United States a National Flood Insurance Reserve Fund (in this section referred to as the “Reserve Fund”) which shall—

(1) be an account separate from any other accounts or funds available to the Administrator; and

(2) be available for meeting the expected future obligations of the flood insurance program, including—

(A) the payment of claims;

(B) claims adjustment expenses; and

(C) the repayment of amounts outstanding under any note or other obligation issued by the Administrator under section 1309(a).

(b) **RESERVE RATIO.**—Subject to the phase-in requirements under subsection (d), the Reserve Fund shall maintain a balance equal to—

(1) 1 percent of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year; or

(2) such higher percentage as the Administrator determines to be appropriate, taking into consideration any circumstance that may raise a significant risk of substantial future losses to the Reserve Fund.

(c) **MAINTENANCE OF RESERVE RATIO.**—

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

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

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

(2) CONSIDERATIONS.—In exercising the authority granted under paragraph (1), the Administrator shall consider—

(A) the expected operating expenses of the Reserve Fund;

(B) the insurance loss expenditures under the flood insurance program;

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

(D) any other factor that the Administrator determines appropriate, *including any provisions relating to chargeable premium rates or annual increases of such rates* .

(3) LIMITATIONS.—

[(A) RATES.—In exercising the authority granted under paragraph (1), the Administrator shall be subject to all other provisions of this Act, including any provisions relating to chargeable premium rates or annual increases of such rates.]

(A) PARITY.—*In exercising the authority granted under paragraph (1) to increase premiums, the Administrator shall institute a single annual, uniform rate of assessment for all individual policyholders.*

(B) USE OF ADDITIONAL ANNUAL INSURANCE PREMIUMS.—Notwithstanding any other provision of law or any agreement entered into by the Administrator, the Administrator shall ensure that all amounts attributable to the establishment or increase of annual insurance premiums under paragraph (1) are transferred to the Administrator for deposit into the Reserve Fund, to be available for meeting the expected future obligations of the flood insurance program as described in subsection (a)(2).

(4) DEPOSIT OF PREMIUM SURCHARGES.—The Administrator shall deposit in the Reserve Fund any surcharges collected pursuant to section 1308A.

(d) PHASE-IN REQUIREMENTS.—The phase-in requirements under this subsection are as follows:

[(1) IN GENERAL.—Beginning in fiscal year 2013 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved, in each such fiscal year the Administrator shall place in the Reserve Fund an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).]

(1) IN GENERAL.—*Beginning in fiscal year 2018 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved—*

(A) in each fiscal year the Administrator shall place in the Reserve Fund an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b); and

(B) if in any given fiscal year the Administrator fails to comply with subparagraph (A), for the following fiscal year the Administrator shall increase the rate of the annual assessment pursuant to subsection (c)(3)(A) by at least one percentage point over the rate of the annual assessment pursuant to subsection (c)(3)(A) in effect on the first day of such given fiscal year.

(2) AMOUNT SATISFIED.—As soon as the ratio required under subsection (b) is achieved, and except as provided in paragraph (3), the Administrator shall not be required to set aside any amounts for the Reserve Fund *nor to increase assessments pursuant to paragraph (1)(B)*.

(3) EXCEPTION.—If at any time after the ratio required under subsection (b) is achieved, the Reserve Fund falls below the required ratio under subsection (b), the Administrator shall place in the Reserve Fund for that fiscal year an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b) *and paragraph (1)(B) shall apply until the fiscal year in which the ratio required under subsection (b) is achieved*.

(e) LIMITATION ON RESERVE RATIO.—In any given fiscal year, if the Administrator determines that the reserve ratio required under subsection (b) cannot be achieved, the Administrator shall submit, on a calendar quarterly basis, a report to Congress that—

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

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

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

(f) INVESTMENT.—The Secretary of the Treasury shall invest such amounts of the Reserve Fund as the Secretary determines advisable in obligations issued or guaranteed by the United States.

* * * * *

PAYMENT OF CLAIMS

SEC. 1312. (a) IN GENERAL.—**[The Administrator]** *Subject to other provisions of this section, the Administrator is authorized to prescribe regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by flood insurance made available under the provisions of this title.*

[(c)] (b) PAYMENT OF CLAIMS TO CONDOMINIUM OWNERS.—The Administrator may not deny payment for any damage to or loss of property which is covered by flood insurance to condominium owners who purchased such flood insurance separate and apart from the flood insurance purchased by the condominium association in which such owner is a member, based solely, or in any part, on the

flood insurance coverage of the condominium association or others on the overall property owned by the condominium association.

(c) *DEADLINE FOR APPROVAL OF CLAIMS.*—

(1) *IN GENERAL.*—*The Administrator shall provide that, in the case of any claim for damage to or loss of property under flood insurance coverage made available under this title, an initial determination regarding approval of a claim for payment or disapproval of the claim be made, and notification of such determination be provided to the insured making such claim, not later than the expiration of the 120-day period (as such period may be extended pursuant to paragraph (2)) beginning upon the day on which the policyholder submits a signed proof of loss detailing the damage and amount of the loss. Payment of approved claims shall be made as soon as possible after such approval.*

(2) *EXTENSION OF DEADLINE.*—*The Administrator shall provide that the period referred to in paragraph (1) may be extended by a single additional period of 15 days in cases where extraordinary circumstances are demonstrated. The Administrator shall, by regulation, establish criteria for demonstrating such extraordinary circumstances and for determining to which claims such extraordinary circumstances apply.*

DISSEMINATION OF FLOOD INSURANCE INFORMATION

SEC. 1313. (a) *PUBLIC INFORMATION AND DATA.*—*The Administrator shall from time to time take such action as may be necessary in order to make information and data available to the public, and to any State or local agency or official, with regard to—*

- (1) the flood insurance program, its coverage and objectives, and
- (2) estimated and chargeable flood insurance premium rates, including the basis for and differences between such rates in accordance with the provisions of section 1308.

(b) *AVAILABILITY OF FLOOD INSURANCE INFORMATION UPON REQUEST.*—*Not later than 30 days after a request for such information by the current owner of a property, the Administrator shall provide to the owner any information, including historical information, available to the Administrator on flood insurance program coverage, payment of claims, and flood damages for the property at issue, and any information the Administrator has on whether the property owner may be required to purchase coverage under the National Flood Insurance Program due to previous receipt of Federal disaster assistance, including assistance provided by the Small Business Administration, the Department of Housing and Urban Development, or the Federal Emergency Management Agency, or any other type of assistance that subjects the property to the mandatory purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a).*

* * * * *

STATE AND LOCAL LAND USE CONTROLS

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

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

(2) AGRICULTURAL STRUCTURES.—

(A) ACTIVITY RESTRICTIONS.—Notwithstanding any other provision of law, the adequate land use and control measures required to be adopted in an area (or subdivision thereof) pursuant to paragraph (1) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to predamaged conditions of an agricultural structure that—

- (i) is a repetitive loss structure; or
- (ii) has incurred flood-related damage to the extent that the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

(D) DEFINITIONS.—For purposes of this paragraph—

- (i) the term “agricultural structure” means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and
- (ii) the term “agricultural commodities” means agricultural commodities and livestock.

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

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

(A) to provide incentives for measures that reduce the risk of flood or erosion damage that exceed the criteria set forth in section 1361 and evaluate such measures;

(B) to encourage adoption of more effective measures that protect natural and beneficial floodplain functions;

(C) to encourage floodplain and erosion management; and

(D) to promote the reduction of Federal flood insurance losses.

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

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

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

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PROGRAM EXPIRATION

SEC. 1319. No new contract for flood insurance under this title shall be entered into after **[September 30, 2017]** *September 30, 2022* .

* * * * *

SEC. 1326. FLOOD INSURANCE AFFORDABILITY PROGRAM.

(a) *AUTHORITY.*—The Administrator shall carry out a program under this section to provide financial assistance, through State programs carried out by participating States, for eligible low-income households residing in eligible properties to purchase policies for flood insurance coverage made available under this title.

(b) *PARTICIPATION.*—Participation in the program under this section shall be voluntary on the part of a State or consortium of States.

(c) *STATE ADMINISTRATION.*—Each participating State shall delegate to a State agency or nonprofit organization the responsibilities for administering the State’s program under this section.

(d) *ELIGIBLE HOUSEHOLDS.*—

(1) *IN GENERAL.*—During any fiscal year, assistance under the program under this section may be provided only for a household that has an income, as determined for such fiscal year by the participating State in which such household resides, that is less than the income limitation established for such fiscal year for purposes of the State program by the participating State, except that—

(A) assistance under the program under this section may not be provided for a household having a income that exceeds the greater of—

(i) the amount equal to 150 percent of the poverty level for such State; or

(ii) the amount equal to 60 percent of the median income of households residing in such State; and

(B) a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for the State in which such household resides.

(2) *STATE VERIFICATION OF INCOME ELIGIBILITY.*—In verifying income eligibility for purposes of paragraph (1), the participating State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), under title XX of the Social Security Act (42 U.S.C. 1397 et seq.), under subtitle B of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9901 et seq.; relating to community services block grant program), under any other provision of law that carries out programs which were administered under the Economic Opportunity Act of 1964 (42 U.S.C. 2701 et seq.) before August 13, 1981, or under other income assistance or service programs (as determined by the State).

(3) *CERTIFICATION BY STATE OF ELIGIBILITY HOUSEHOLDS.*—For each fiscal year, each participating State shall certify to the Administrator compliance of households who are to be provided assistance under the State program during such fiscal year with the income requirements under paragraph (1).

(e) *ELIGIBLE PROPERTIES.*—Assistance under the program under this section may be provided only for a residential property—

(1) that has 4 or fewer residences;

(2) that is owned and occupied by an eligible household;

(3) for which a base flood elevation is identified on a flood insurance rate map of the Administrator that is in effect;

(4) for which such other information is available as the Administrator considers necessary to determine the flood risk associated with such property; and

(5) that is located in a community that is participating in the national flood insurance program.

(f) *TYPES OF ASSISTANCE.*—Under the program under this section, a participating State shall elect to provide financial assistance for eligible households in one of the following forms:

(1) *LIMITATION ON RATE INCREASES.*—By establishing a limitation on the rate of increases in the amount of chargeable premiums paid by eligible households for flood insurance coverage made available under this title.

(2) *LIMITATION ON RATES.*—By establishing a limitation on the amount of chargeable premiums paid by eligible households for flood insurance coverage made available under this title.

(g) *NOTIFICATION TO FEMA.*—Under the program under this section, a participating State shall, on a fiscal year basis and at the time and in the manner provided by the Administrator—

(1) identify for the Administrator the eligible households residing in the State who are to be provided assistance under the State program during such fiscal year; and

(2) notify the Administrator of the type and levels of assistance elected under subsection (f) to be provided under the State program with respect to such eligible households residing in the State.

(h) *AMOUNT OF ASSISTANCE.*—Under the program under this section, in each fiscal year the Administrator shall, notwithstanding section 1308, make flood insurance coverage available for purchase by households identified as eligible households for such fiscal year by a participating State pursuant to subsection (e) at chargeable premium rates that are discounted by an amount that is based on the type and levels of assistance elected pursuant to subsection (f) by the participating State for such fiscal year.

(i) *BILLING STATEMENT.*—In the case of an eligible household for which assistance under the program under this section is provided with respect to a policy for flood insurance coverage, the annual billing statement for such policy shall include statements of the following amounts:

(1) The estimated risk premium rate for the property under section 1307(a)(1).

(2) If applicable, the estimated risk premium rate for the property under section 1307(a)(2).

(3) The chargeable risk premium rate for the property taking into consideration the discount pursuant to subsection (h).

(4) The amount of the discount pursuant to subsection (h) for the property.

(5) The number and dollar value of claims filed for the property, over the life of the property, under a flood insurance policy made available under the Program and the effect, under this Act, of filing any further claims under a flood insurance policy with respect to that property.

(j) *FUNDING THROUGH STATE AFFORDABILITY SURCHARGES.*—

(1) *IMPOSITION AND COLLECTION.*—Notwithstanding section 1308, for each fiscal year in which flood insurance coverage under this title is made available for properties in a participating State at chargeable premium rates that are discounted pursuant to subsection (f), the Administrator shall impose and collect a State affordability surcharge on each policy for flood insurance coverage for a property located in such participating State that is (A) not a residential property having 4 or fewer residences, or (B) is such a residential property but is owned by a household that is not an eligible household for purposes of such fiscal year.

(2) *AMOUNT.*—The amount of the State affordability surcharge imposed during a fiscal year on each such policy for a property in a participating State shall be—

(A) sufficient such that the aggregate amount of all such State affordability surcharges imposed on properties in such participating State during such fiscal year is equal to the aggregate amount by which all policies for flood insurance coverage under this title sold during such fiscal year for properties owned by eligible households in the participating State are discounted pursuant to subsection (f); and

(B) the same amount for each property in the participating State being charged such a surplus.

(k) *TREATMENT OF OTHER SURCHARGES.*—The provision of assistance under the program under this section with respect to any property and any limitation on premiums or premium increases pursuant to subsection (f) for the property shall not affect the applicability or amount of any surcharge under section 1308A for the property, of any increase in premiums charged for the property pursuant to section 1310A(c), or of any equivalency fee under section 1308B for the property.

(l) *DEFINITIONS.*—For purposes of this section, the following definitions shall apply:

(1) *PARTICIPATING STATE.*—The term “participating State” means, with respect to a fiscal year, a State that is participating in the program under this section for such fiscal year.

(2) *ELIGIBLE HOUSEHOLD.*—The term “eligible household” means, with respect to a fiscal year and a participating State, a household that has an income that is less than the amount of the income limitation for the fiscal year established for purposes of the State program of such participating State pursuant to subsection (g)(1).

(3) *POVERTY LEVEL.*—The term “poverty level” means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), as applicable to such State.

(4) *STATE.*—The term “State” shall include a consortium of States established for purposes of administering the program under this section with respect to the member States of the consortium.

(5) *STATE PROGRAM.*—The term “State program” means a program carried out in compliance with this section by a participating State in conjunction with the program under this section of the Administrator.

(m) *REGULATIONS.*—The Administrator shall issue such regulations as may be necessary to carry out the program under this section.

SEC. 1327. DISCLOSURE OF FLOOD RISK INFORMATION UPON TRANSFER OF PROPERTY.

(a) *REQUIREMENT FOR PARTICIPATION IN PROGRAM.*—After September 30, 2022, no new flood insurance coverage may be provided under this title for any real property located in any area (or subdivision thereof) unless an appropriate body has imposed, by statute or regulation, a duty on any seller or lessor of improved real estate located in such area to provide to any purchaser or lessee of such

property a property flood hazard disclosure which the Administrator has determined meets the requirements of subsection (b).

(b) DISCLOSURE REQUIREMENTS.—A property flood hazard disclosure for a property shall meet the requirements of this subsection only if the disclosure—

(1) is made in writing;

(2) discloses any actual knowledge of the seller or lessor of—
(A) prior physical damage caused by flood to any building located on the property;

(B) prior insurance claims for losses covered under the National Flood Insurance Program or private flood insurance with respect to such property;

(C) any previous notification regarding the designation of the property as a repetitive loss or severe repetitive loss property; and

(D) any Federal legal obligation to obtain and maintain flood insurance running with the property, such as any obligation due to a previous form of disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act received by any owner of the property; and

(3) is delivered by or on behalf of the seller or lessor to the purchaser or lessee before such purchaser or lessee becomes obligated under any contract for purchase or lease of the property.

CHAPTER II—ORGANIZATION AND ADMINISTRATION OF THE FLOOD INSURANCE PROGRAM

* * * * *

PART C—PROVISIONS OF GENERAL APPLICABILITY

SERVICES BY INSURANCE INDUSTRY

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

(b) Any such contracts, agreements, or other arrangements may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provisions of law requiring competitive bidding and without regard to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(c) The Administrator of the Federal Emergency Management Agency shall hold any agent or broker selling or undertaking to sell flood insurance under this title harmless from any judgment for damages against such agent or broker as a result of any court action by a policyholder or applicant arising out of an error or omission on the part of the Federal Emergency Management Agency, and shall provide any such agent or broker with indemnification,

including court costs and reasonable attorney fees, arising out of and caused by an error or omission on the part of the Federal Emergency Management Agency and its contractors. The Administrator of the Federal Emergency Management Agency may not hold harmless or indemnify an agent or broker for his or her error or omission.

(d) **FEMA AUTHORITY ON TRANSFER OF POLICIES.**—Notwithstanding any other provision of this title, the Administrator may, at the discretion of the Administrator, refuse to accept the transfer of the administration of policies for coverage under the flood insurance program under this title that are written and administered by any insurance company or other insurer, or any insurance agent or broker.

(e) **RISK TRANSFER.**—The Administrator may secure reinsurance of coverage provided by the flood insurance program from the private reinsurance and capital markets at rates and on terms determined by the Administrator to be reasonable and appropriate, in an amount sufficient to maintain the ability of the program to pay claims.

(f) **AUTHORITY TO PROVIDE OTHER FLOOD COVERAGE.**—

(1) **IN GENERAL.**—*The Administrator may not, as a condition of participating in the Write Your Own Program (as such term is defined in section 1370(a)) or in otherwise participating in the utilization by the Administrator of the facilities and services of insurance companies, insurers, insurance agents and brokers, and insurance adjustment organizations pursuant to the authority in this section, nor as a condition of eligibility to engage in any other activities under the National Flood Insurance Program under this title, restrict any such company, insurer, agent, broker, or organization from offering and selling private flood insurance (as such term is defined in section 102(b)(9) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(9))).*

(2) **FINANCIAL ASSISTANCE/SUBSIDY ARRANGEMENT.**—*After the date of the enactment of this subsection—*

(A) *the Administrator may not include in any agreement entered into with any insurer for participation in the Write Your Own Program any provision establishing a condition prohibited by paragraph (1), including the provisions of Article XIII of the Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/ Subsidy Arrangement, as adopted pursuant to section 62.23(a) of title 44 of the Code of Federal Regulations; and*

(B) *any such provision in any such agreement entered into before such date of enactment shall not have any force or effect, and the Administrator may not take any action to enforce such provision.*

(g) **WRITE YOUR OWN ALLOWANCE AND PROGRAM SAVINGS.**—

(1) **ALLOWANCE RATE.**—

(A) **LIMITATION.**—*The allowance paid to companies participating in the Write Your Own Program (as such term is defined in section 1370 (42 U.S.C. 4004)) with respect to a policy for flood insurance coverage made available under this title shall not be greater than 27.9 percent of the chargeable premium for such coverage.*

(B) *INAPPLICABILITY.*—Subparagraph (A) shall not apply to actual and necessary costs related to section 1312(a) (42 U.S.C, 4019(a)), or to payments deemed necessary by the Administrator.

(C) *IMPLEMENTATION.*—The limitation in subparagraph (A) shall be imposed by equal reductions over the 3-year period beginning on the date of the enactment of this subsection.

(2) *PROGRAM SAVINGS.*—

(A) *IMPLEMENTATION.*—The Administrator, within three years of the date of the enactment of this Act, shall reduce the costs and unnecessary burdens for the companies participating in the Write Your Own program by at least half of the amount by which the limitation under paragraph (1)(A) reduced costs compared to the costs as of the date of the enactment of this subsection.

(B) *CONSIDERATION OF SAVINGS.*—In meeting the requirement of subparagraph (A), the Administrator shall consider savings including—

- (i) indirect payments by the Administrator of premium;
- (ii) eliminating unnecessary communications requirements;
- (iii) reducing the frequency of National Flood Insurance Program changes;
- (iv) simplifying the flood rating system; and
- (v) other ways of streamlining the Program to reduce costs while maintaining customer service and distribution.

* * * * *

SEC. 1349. PUBLIC AVAILABILITY OF PROGRAM INFORMATION.

(a) *FLOOD RISK INFORMATION.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), to facilitate the National Flood Insurance Program becoming a source of information and data for research and development of technology that better understands flooding, the risk of flooding, and the predictability of perils of flooding, the Administrator shall make publicly available all data, models, assessments, analytical tools, and other information in the possession of the Administrator relating to the National Flood Insurance Program under this title that is used in assessing flood risk or identifying and establishing flood elevations and premiums, including—

(A) data relating to risk on individual properties and loss ratio information and other information identifying losses under the program;

(B) current and historical policy information, limited to the amount and term only, for properties currently covered by flood insurance and for properties that are no longer covered by flood insurance;

(C) current and historical claims information, limited to the date and amount paid only, for properties currently covered by flood insurance and for properties that are no longer covered by flood insurance;

(D) identification of whether a property was constructed before or after the effective date of the first flood insurance rate map for a community;

(E) identification of properties that have been mitigated through elevation, a buyout, or any other mitigation action; and

(F) identification of unmitigated multiple-loss properties.

(2) **OPEN SOURCE DATA SYSTEM.**—In carrying out paragraph (1), the Administrator shall establish an open source data system by which all information required to be made publicly available by such subsection may be accessed by the public on an immediate basis by electronic means.

(b) **COMMUNITY INFORMATION.**—Not later than the expiration of the 12-month period beginning upon the date of the enactment of this section, the Administrator shall establish and maintain a publicly searchable database that provides information about each community participating in the National Flood Insurance Program, which shall include the following information:

(1) The status of the community's compliance with the National Flood Insurance Program, including any findings of non-compliance, the status of any enforcement actions initiated by a State or by the Administrator, and the number of days of any such continuing noncompliance.

(2) The number of properties located in the community's special flood hazard areas that were built before the effective date of the first flood insurance rate map for the community.

(3) The number of properties located in the community's special flood hazard areas that were built after the effective date of the first flood insurance rate map for the community.

(4) The total number of current and historical claims located outside the community's special flood hazard areas.

(5) The total number of multiple-loss properties in the community.

(6) The portion of the community, stated as a percentage and in terms of square miles, that is located within special flood hazard areas.

(c) **IDENTIFICATION OF PROPERTIES.**—The information provided pursuant to subsections (a) and (b) shall be based on data that identifies properties at the zip code or census block level, and shall include the name of the community and State in which a property is located.

(d) **PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.**—The information provided pursuant to subsections (a) and (b) shall be disclosed in a format that does not reveal individually identifiable information about property owners in accordance with the section 552a of title 5, United States Code.

(e) **DEFINITION OF LOSS RATIO.**—For purposes of this section, the term “loss ratio” means, with respect to the National Flood Insurance Program, the ratio of the amount of claims paid under the Program to the amount of premiums paid under the Program.

SEC. 1350. FLOOD INSURANCE CLEARINGHOUSE.

(a) **ESTABLISHMENT AND OPERATIONS.**—Not later than January 1, 2021, the Administrator shall establish and commence operations of a Flood Insurance Clearinghouse (in this section referred to as the “Clearinghouse”) in accordance with the report, plan, and guide-

lines required under section 506(b)(2) of the 21st Century Flood Reform Act.

(b) *PURPOSE.*—The Clearinghouse shall be established for the purpose of receiving applications from prospective insureds for flood insurance coverage for properties for which such coverage is prohibited under section 1305(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4012(f)) and for providing to such applicants offers for such coverage from insurers providing private flood insurance (as such term is defined for purposes of section 102(c) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(c)) and, subject to the limitations in this section, for coverage made available under the National Flood Insurance Program.

(c) *FUNCTIONS.*—The Clearinghouse shall have as its functions—

(1) to provide for prospective insureds to submit to the Clearinghouse applications for flood insurance coverage for properties described in subsection (b);

(2) to determine, with respect to a property identified in an application, the chargeable premium rate for coverage made available under this title;

(3) with respect to a property identified in an application, to solicit offers of coverage under private flood insurance from providers of such insurance during a reasonable period of time after such application, which offers shall provide terms and conditions of insurance, including deductibles and exclusions, that are sufficient to meet the requirements of section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a); and

(4) to provide to the applicant for insurance—

(A) any bona fide offers for private insurance coverage made pursuant to paragraph (3) for the property identified in the application;

(B) in the case only of a property for which such coverage is authorized pursuant to subsection (g) of section 1305, a bona fide offer for flood insurance coverage made available under this title for the property; and

(C) information to help the applicant for insurance understand such offers and the limitation under section 1305(g);

(d) *MANAGEMENT AND OPERATION.*—The Clearinghouse shall be managed and operated by a third party pursuant to a contract with the Administrator.

(e) *AGREEMENTS.*—The Administrator may enter into such agreements with insurers providing private flood insurance coverage as may be necessary for the Clearinghouse to carry out its functions.

(f) *FEES.*—The Clearinghouse may charge a fee to applicants to cover administrative costs of the Clearinghouse.

(g) *REPORTS.*—The Clearinghouse shall report periodically, as determined by the Administrator, to the Administrator regarding the operations and activities of the Clearinghouse.

SEC. 1351. RULES OF CONSTRUCTION.

(a) *DEFINITION.*—For purposes of this part, the term “knowingly” means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this part.

(b) *ADMINISTRATIVE REMEDY.*—A policyholder of a policy for flood insurance coverage made available under this title must exhaust all administrative remedies, including submission of disputed claims to

appeal under any appeal process made available by the Administrator, prior to commencing legal action on any disputed claim under such a policy.

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

IDENTIFICATION OF FLOOD-PRONE AREAS

SEC. 1360. (a) The Administrator is authorized to consult with, receive information from, and enter into any agreements or other arrangements with the Secretaries of the Army, the Interior, Agriculture, and Commerce, the Tennessee Valley Authority, and the heads of other Federal departments or agencies, on a reimbursement basis, or with the head of any State or local agency, or enter into contracts with any persons or private firms, in order that he may—

(1) identify and publish information with respect to all flood plain areas, including coastal areas located in the United States, which have special flood hazards, within five years following the date of the enactment of this Act, and

(2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 1319.

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

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

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

(e) REVIEW OF FLOOD MAPS.—Once during each 5-year period (the 1st such period beginning on the date of enactment of the Rie-

gle Community Development and Regulatory Improvement Act of 1994) or more often as the Administrator determines necessary, the Administrator shall assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under this section, based on an analysis of all natural hazards affecting flood risks.

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

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

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

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

(h) NOTIFICATION OF FLOOD MAP CHANGES.—The Administrator shall cause notice to be published in the Federal Register (or shall provide notice by another comparable method) of any change to flood insurance map panels and any change to flood insurance map panels issued in the form of a letter of map amendment or a letter of map revision. Such notice shall be published or otherwise provided not later than 30 days after the map change or revision becomes effective. Notice by any method other than publication in the Federal Register shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as notice in the Federal Register. All notices under this subsection shall include information on how to obtain copies of the changes or revisions.

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

(j) PROVISION OF INFORMATION.—In the implementation of revisions to and updates of flood insurance rate maps, the Administrator shall share information, to the extent appropriate, with the

Under Secretary of Commerce for Oceans and Atmosphere and representatives from State coastal zone management programs.

(k) APPEALS OF EXISTING MAPS.—

(1) RIGHT TO APPEAL.—Subject to paragraph (6), a State or local government, or the owner or lessee of real property, who has made a formal request to the Administrator to update a flood map that the Administrator has denied may at any time appeal such a denial as provided in this subsection.

(2) BASIS FOR APPEAL.—The basis for appeal under this subsection shall be the possession of knowledge or information that—

(A) the base flood elevation level or designation of any aspect of a flood map is scientifically or technically inaccurate; or

(B) factors exist that mitigate the risk of flooding, including ditches, banks, walls, vegetation, levees, lakes, dams, reservoirs, basin, retention ponds, and other natural or manmade topographical features.

(3) APPEALS PROCESS.—

(A) ADMINISTRATIVE ADJUDICATION.—An appeal under this subsection shall be determined by a final adjudication on the record, and after opportunity for an administrative hearing.

(B) RIGHTS UPON ADVERSE DECISION.—If an appeal pursuant to subparagraph (A) does not result in a decision in favor of the State, local government, owner, or lessee, such party may appeal the adverse decision to the Scientific Resolution Panel provided for in section 1363A, which shall recommend a non-binding decision to the Administrator.

(4) RELIEF.—

(A) WHOLLY SUCCESSFUL APPEALS.—In the case of a successful appeal resulting in a policyholder's property being removed from a special flood hazard area, such policyholder may cancel the policy at any time within the current policy year, and the Administrator shall provide such policyholder a refund in the amount of any premiums paid for such policy year, plus any premiums paid for flood insurance coverage that the policyholder was required to purchase or maintain during the 2-year period preceding such policy year.

(B) PARTIALLY SUCCESSFUL APPEALS.—In the case of any appeal in which mitigating factors were determined to have reduced, but not eliminated, the risk of flooding, the Administrator shall reduce the amount of flood insurance coverage required to be maintained for the property concerned by the ratio of the successful portion of the appeal as compared to the entire appeal. The Administrator shall refund to the policyholder any payments made in excess of the amount necessary for such new coverage amount, effective from the time when the mitigating factor was created or the beginning of the second policy year preceding the determination of the appeal, whichever occurred later.

(C) ADDITIONAL RELIEF.—The Administrator may provide additional refunds in excess of the amounts specified in

subparagraphs (A) and (B) if the Administrator determines that such additional amounts are warranted.

(5) *RECOVERY OF COSTS.—When, incident to any appeal which is successful in whole or part regarding the designation of the base flood elevation or any aspect of the flood map, including elevation or designation of a special flood hazard area, the community, or the owner or lessee of real property, as the case may be, incurs expense in connection with the appeal, including services provided by surveyors, engineers, and scientific experts, the Administrator shall reimburse such individual or community for reasonable expenses to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal, but not including legal services, in the effecting of an appeal based on a scientific or technical error on the part of the Federal Emergency Management Agency. No reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. The Administrator may use such amounts from the National Flood Insurance Fund established under section 1310 as may be necessary to carry out this paragraph.*

(6) *INAPPLICABILITY TO COMMUNITY FLOOD MAPS.—This subsection shall not apply with respect to any flood map that is in effect pursuant to certification under the standards, guidelines, and procedures established pursuant to section 100215(m)(1)(B) of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4101a(m)(1)(B)).*

(7) *GUIDANCE.—The Administrator shall issue guidance to implement this subsection, which shall not be subject to the notice and comment requirements under section 553 of title 5, United States Code.*

* * * * *

APPEALS

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

(b) The Administrator shall publish notification of flood elevation determinations and designations of areas having special flood hazards in a prominent local newspaper at least twice during the ten-day period following notification to the local government. **[During the ninety-day period following the second publication, any owner or lessee of real property within the community who believes his property rights to be adversely affected by the Administrator's proposed determination may appeal such determination to the local government.]** *Any owner or lessee of real property within the community who believes the owner's or lessee's rights to be adversely affected by the Administrator's proposed determination may appeal such determination to the local government no later than 90 days after the date of the second publication.* The sole grounds for appeal

shall be the possession of knowledge or information indicating that (1) the elevations being proposed by the Administrator with respect to an identified area having special flood hazards are scientifically or technically incorrect, or (2) the designation of an identified special flood hazard area is scientifically or technically incorrect.

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

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

(e) DETERMINATION BY ADMINISTRATOR IN THE ABSENCE OF APPEALS.—If the Administrator has not received any appeals, upon expiration of the 90-day appeal period established under subsection (b) of this section the Administrator's proposed determination shall become final. The community shall be given a reasonable time after the Administrator's final determination in which to adopt local land use and control measures consistent with the Administrator's determination.

[(e)] (f) Upon appeal by any community, as provided by this section, the Administrator shall review and take fully into account any technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based. The Administrator shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to the Scientific Resolution Panel provided for in section 1363A. Until the conflict in data is resolved, and the Administrator makes a final determination on the basis of his findings in the Federal Register, and so notifies the governing body of the community, flood insurance previously available within the community shall continue to be available, and no person shall be denied the right to purchase such insurance at chargeable rates. The Administrator shall make his determination within a reasonable time. The community shall be given a reasonable time after the Administrator's final determination in which to adopt local land use and control

measures consistent with the Administrator's determination. The reports and other information used by the Administrator in making his final determination shall be made available for public inspection and shall be admissible in a court of law in the event the community seeks judicial review as provided by this section.

[(f)] (g) REIMBURSEMENT OF CERTAIN EXPENSES.—When, incident to any appeal under subsection (b) or (c) of this section, the owner or lessee of real property or the community, as the case may be, or, in the case of an appeal that is resolved by submission of conflicting data to the Scientific Resolution Panel provided for in section 1363A, the community, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal based on a scientific or technical error on the part of the Federal Emergency Management Agency, which is successful in whole or part, the Administrator shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. The Administrator may use such amounts from the National Flood Insurance Fund established under section 1310 as may be necessary to carry out this subsection. The Administrator shall promulgate regulations to carry out this subsection.

[(g)] (h) Except as provided in section 1363A, any appellant aggrieved by any final determination of the Administrator upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of title 5, United States Code. During the pendency of any such litigation, all final determinations of the Administrator shall be effective for the purposes of this title unless stayed by the court for good cause shown.

(i) INAPPLICABILITY TO COMMUNITY FLOOD MAPS.—*This section shall not apply with respect to any flood map that is in effect pursuant to certification under the standards, guidelines, and procedures established pursuant to section 100215(m)(1) of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4101a(m)(1)), which shall include procedures for providing notification and appeal rights to individuals within the communities of the proposed flood elevation determinations.*

* * * * *

MITIGATION ASSISTANCE

SEC. 1366. (a) AUTHORITY.—The Administrator shall carry out a program to provide financial assistance to States and communities, using amounts made available from the National Flood Mitigation Fund under section 1367, for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance under this title. *Priority under the program shall be given to providing assistance with respect to*

multiple-loss properties. Such financial assistance shall be made available—

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

[(2) to States and communities in the form of grants under this section for carrying out mitigation activities that reduce flood damage to severe repetitive loss structures; and

[(3) to property owners in the form of direct grants under this section for carrying out mitigation activities that reduce flood damage to individual structures for which 2 or more claim payments for losses have been made under flood insurance coverage under this title if the Administrator, after consultation with the State and community, determines that neither the State nor community in which such a structure is located has the capacity to manage such grants.]

(2) *to property owners, in coordination with the State and community, in the form of direct grants under this section for carrying out mitigation activities that reduce flood damage to extreme repetitive-loss properties.*

The Administrator shall take such actions as may be necessary to ensure that grants under this subsection are provided in a manner that is consistent with the delivery of coverage for increased cost of compliance provided under section 1304(b).

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

(c) ELIGIBLE MITIGATION ACTIVITIES.—

(1) REQUIREMENT OF CONSISTENCY WITH APPROVED MITIGATION PLAN.—Amounts provided under this section may be used only for mitigation activities that are consistent with mitigation plans that are approved by the Administrator and identified under paragraph (4). The Administrator shall provide assistance under this section to the extent amounts are available in the National Flood Mitigation Fund pursuant to appropriation Acts, subject only to the absence of approvable mitigation plans.

(2) REQUIREMENTS OF TECHNICAL FEASIBILITY, COST EFFECTIVENESS, AND INTEREST OF NATIONAL FLOOD INSURANCE FUND.—

(A) IN GENERAL.—The Administrator may approve only mitigation activities that the Administrator determines—

- (i) are technically feasible and cost-effective; or
- (ii) will eliminate future payments from the National Flood Insurance Fund for [severe repetitive loss

structures] *multiple-loss properties* through an acquisition or relocation activity.

(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator shall take into consideration recognized ancillary benefits.

(3) ELIGIBLE ACTIVITIES.—Eligible activities under a mitigation plan may include—

(A) demolition or relocation of any structure located on land that is along the shore of a lake or other body of water and is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or flooding;

(B) elevation, relocation, demolition, or floodproofing of structures (including public structures) located in areas having special flood hazards or other areas of flood risk;

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

(D) elevation, relocation, or floodproofing of utilities (including equipment that serves structures);

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

(F) the development or update of mitigation plans by a State or community which meet the planning criteria established by the Administrator, except that the amount from grants under this section that may be used under this subparagraph may not exceed \$50,000 for any mitigation plan of a State or \$25,000 for any mitigation plan of a community;

(G) the provision of technical assistance by States to communities and individuals to conduct eligible mitigation activities;

(H) other activities that the Administrator considers appropriate and specifies in regulation;

(I) other mitigation activities not described in subparagraphs (A) through (G) or the regulations issued under subparagraph (H), that are described in the mitigation plan of a State or community; and

(J) without regard to the requirements under paragraphs (1) and (2) of subsection (d), and if the State applied for and was awarded at least \$1,000,000 in grants available under this section in the prior fiscal year, technical assistance to communities to identify eligible activities, to develop grant applications, and to implement

grants awarded under this section, not to exceed \$50,000 to any 1 State in any fiscal year.

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

(d) **MATCHING REQUIREMENT.**—The Administrator may provide grants for eligible mitigation activities as follows:

(1) **[SEVERE REPETITIVE LOSS STRUCTURES] EXTREME REPETITIVE-LOSS PROPERTIES.**—In the case of mitigation activities to **[severe repetitive loss structures] extreme repetitive-loss properties**, in an amount up to—

(A) 100 percent of all eligible costs, if the activities are approved under subsection (c)(2)(A)(i); or

(A) the expected savings to the National Flood Insurance Fund from expected avoided damages through acquisition or relocation activities, if the activities are approved under subsection (c)(2)(A)(ii).

(2) **[REPETITIVE LOSS STRUCTURES] SEVERE REPETITIVE-LOSS PROPERTIES.**—In the case of mitigation activities to **[repetitive loss structures] severe repetitive-loss properties**, in an amount up to **[90 percent] 100 percent** of all eligible costs.

(3) **REPETITIVE-LOSS PROPERTY.**—*In the case of mitigation activities to repetitive-loss properties, in an amount up to 100 percent of all eligible costs.*

[(3)] (4) OTHER MITIGATION ACTIVITIES.—In the case of all other mitigation activities, in an amount up to 75 percent of all eligible costs

(e) **RECAPTURE.**—

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

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

(f) **REPORTS.**—Not later than 1 year after the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 and biennially thereafter, the Administrator shall submit a report to the Congress describing the status of mitigation activities carried out with assistance provided under this section.

(g) **FAILURE TO MAKE GRANT AWARD WITHIN 5 YEARS.**—For any application for a grant under this section for which the Administrator fails to make a grant award within 5 years of the date of the application, the grant application shall be considered to be denied and any funding amounts allocated for such grant applications

shall remain in the National Flood Mitigation Fund under section 1367 of this title and shall be made available for grants under this section.

(h) ALIGNMENT WITH INCREASED COST OF COMPLIANCE.—Notwithstanding any provision of law, any funds appropriated for assistance under this title may be transferred to the National Flood Insurance Fund established under section 1310 (42 U.S.C. 4017) for the payment of claims to enable the Administrator to deliver grants under subsection (a)(2) of this section to align with the delivery of coverage for increased cost of compliance for extreme repetitive-loss properties.

(i) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of law, assistance provided under this section shall be funded by—

(A) \$225,000,000 in each fiscal year, subject to offsetting collections, through risk premium rates for flood insurance coverage under this title, and shall be available subject to section 1310(f);

(B) any penalties collected under section 102(f) the Flood Disaster Protect Act of 1973 (42 U.S.C. 4012a(f); and

(C) any amounts recaptured under subsection (e) of this section.

The Administrator may not use more than 5 percent of amounts made available under this subsection to cover salaries, expenses, and other administrative costs incurred by the Administrator to make grants and provide assistance under this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to this subsection for any fiscal year may remain available for obligation until expended.

[(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:]

[(1) COMMUNITY.—The] (j) DEFINITION OF COMMUNITY.—For purposes of this section, the term “community” means—

[(A)] (1) a political subdivision that—

[(i)] (A) has zoning and building code jurisdiction over a particular area having special flood hazards; and

[(ii)] (B) is participating in the national flood insurance program; or

[(B)] (2) a political subdivision of a State, or other authority, that is designated by political subdivisions, all of which meet the requirements of [subparagraph (A)] paragraph (1), to administer grants for mitigation activities for such political subdivisions.

[(2) REPETITIVE LOSS STRUCTURE.—The term “repetitive loss structure” has the meaning given such term in section 1370.

[(3) SEVERE REPETITIVE LOSS STRUCTURE.—The term “severe repetitive loss structure” means a structure that—

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

[(B) has incurred flood-related damage—

[(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim exceed-

ing \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

[(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the insured structure.]

[NATIONAL FLOOD MITIGATION FUND]

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

[(b) CREDITS.—The National Flood Mitigation Fund shall be credited with—

[(1) in each fiscal year, amounts from the National Flood Insurance Fund not to exceed \$90,000,000 and to remain available until expended, of which—

[(A) not more than \$40,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 1366(a)(1);

[(B) not more than \$40,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 1366(a)(2); and

[(C) not more than \$10,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 1366(a)(3);

[(2) any penalties collected under section 102(f) of the Flood Disaster Protection Act of 1973; and

[(3) any amounts recaptured under section 1366(e).

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

[(d) PROHIBITION ON OFFSETTING COLLECTIONS.—Notwithstanding any other provision of this title, amounts made available pursuant to this section shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

[(e) CONTINUED AVAILABILITY AND REALLOCATION.—Any amounts made available pursuant to subparagraph (A), (B), or (C) of subsection (b)(1) that are not used in any fiscal year shall continue to be available for the purposes specified in the subparagraph of subsection (b)(1) pursuant to which such amounts were made available, unless the Administrator determines that reallocation of such unused amounts to meet demonstrated need for other mitigation activities under section 1366 is in the best interest of the National Flood Insurance Fund.

[(f) INVESTMENT.—If the Administrator determines that the amounts in the National Flood Mitigation Fund are in excess of amounts needed under subsection (a), the Administrator may invest any excess amounts the Administrator determines advisable in

interest-bearing obligations issued or guaranteed by the United States.

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

CHAPTER IV—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 1370. (a) As used in this title—

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

(2) the terms “United States” (when used in a geographic sense) and “State” includes the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands;

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

(4) the term “insurance adjustment organization” includes any organizations and persons engaged in the business of adjusting loss claims arising under insurance policies issued by any insurance company or other insurer;

(5) the term “person” includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons, including State and local governments and agencies thereof;

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

[(7) the term “repetitive loss structure” means a structure covered by a contract for flood insurance that—

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

[(B) at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.]

[(8)] (7) the term “Federal agency lender” means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

[(9)] (8) the term “Federal entity for lending regulation” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

[(10)] (9) the term “improved real estate” means real estate upon which a building is located;

[(11)] (10) the term “lender” means a regulated lending institution or Federal agency lender;

[(12)] (11) the term “natural and beneficial floodplain functions” means—

(A) the functions associated with the natural or relatively undisturbed floodplain that (i) moderate flooding, retain flood waters, reduce erosion and sedimentation, and mitigate the effect of waves and storm surge from storms, and (ii) reduce flood related damage; and

(B) ancillary beneficial functions, including maintenance of water quality and recharge of ground water, that reduce flood related damage;

[(13)] (12) the term “regulated lending institution” means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation;

[(14)] (13) the term “servicer” means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan; and

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

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

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

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

(d) *MULTIPLE-LOSS PROPERTIES.*—

(1) *DEFINITIONS.*—*As used in this title:*

(A) *MULTIPLE-LOSS PROPERTY.*—*The term “multiple-loss property” means any property that is a repetitive-loss property, a severe repetitive-loss property, or an extreme repetitive-loss property.*

(B) *REPETITIVE-LOSS PROPERTY.*—*The term “repetitive-loss property” means a structure that has incurred flood damage for which two or more separate claims payments of any amount have been made under flood insurance coverage under this title.*

(C) *SEVERE REPETITIVE-LOSS PROPERTY.*—*The term “severe repetitive-loss property” means a structure that has incurred flood damage for which—*

(i) 4 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

(ii) at least 2 separate claims payments have been made under flood insurance coverage under this title, with the cumulative amount of such claims payments exceeding the value of the structure.

(D) *EXTREME REPETITIVE-LOSS PROPERTY.*—*The term “extreme repetitive-loss property” means a structure that has incurred flood damage for which at least 2 separate claims have been made under flood insurance coverage under this title, with the cumulative amount of such claims payments exceeding 150 percent of the maximum coverage amount available for the structure.*

(2) *TREATMENT OF CLAIMS BEFORE COMPLIANCE WITH STATE AND LOCAL REQUIREMENTS.*—*The Administrator shall not consider claims that occurred before a structure was made compliant with State and local floodplain management requirements for purposes of determining a structure’s status as a multiple-loss property.*

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FLOOD DISASTER PROTECTION ACT OF 1973

* * * * *

TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

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FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND
ESCROW ACCOUNTS

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

(b) REQUIREMENT FOR MORTGAGE LOANS.—

(1) REGULATED LENDING INSTITUTIONS.— **[Each]** *Subject to subsection (i) of this section, each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974) shall by regulation direct regulated lending institutions—*

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

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

(2) FEDERAL AGENCY LENDERS.—A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any per-

sonal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1)(A). **[Each]** *Subject to subsection (i) of this section*, A Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence. Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1)(A).

(3) GOVERNMENT-SPONSORED ENTERPRISES FOR HOUSING.—**[The]** *Subject to subsection (i) of this section*, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

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

(B) purchased by such entity,
the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1)(A). The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under paragraph (1)(A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such paragraph and any requirements established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, respectively, relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation will accept private flood insurance.

(4) APPLICABILITY.—

(A) EXISTING COVERAGE.—Except as provided in subparagraph (B), paragraph (1) shall apply on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

(B) NEW COVERAGE.—Paragraphs (2) and (3) shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994. Paragraph (1) shall apply with respect to any loan made, increased, extended, or renewed by any lender supervised by the Farm Credit Administration only after the expiration of the period under this subparagraph.

(C) CONTINUED EFFECT OF REGULATIONS.—Notwithstanding any other provision of this subsection, the regulations to carry out paragraph (1), as in effect immediately

before the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, shall continue to apply until the regulations issued to carry out paragraph (1) as amended by section 522(a) of such Act take effect.

(5) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to supersede or limit the authority of a Federal entity for lending regulation, the Federal Housing Finance Agency, a Federal agency lender, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation to establish requirements relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the entity or agency will accept private flood insurance.

(6) **NOTICE.**—

(A) **IN GENERAL.**—Each lender shall disclose to a borrower that is subject to this subsection that—

(i) flood insurance is available from private insurance companies that issue standard flood insurance policies on behalf of the national flood insurance program or directly from the national flood insurance program;

(ii) flood insurance that provides the same level of coverage as a standard flood insurance policy under the national flood insurance program may be available from a private insurance company that issues policies on behalf of the company; and

(iii) the borrower is encouraged to compare the flood insurance coverage, deductibles, exclusions, conditions and premiums associated with flood insurance policies issued on behalf of the national flood insurance program and policies issued on behalf of private insurance companies and to direct inquiries regarding the availability, cost, and comparisons of flood insurance coverage to an insurance agent.

(B) **RULE OF CONSTRUCTION.**—Nothing in this paragraph shall be construed as affecting or otherwise limiting the authority of a Federal entity for lending regulation to approve any disclosure made by a regulated lending institution for purposes of complying with subparagraph (A).

(7) **PRIVATE FLOOD INSURANCE DEFINED.**—In this subsection, the term “private flood insurance” means an insurance policy that—

[(A) is issued by an insurance company that is—

[(i) licensed, admitted, or otherwise approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located, by the insurance regulator of that State or jurisdiction; or

[(ii) in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction where the property to be insured is located;

[(B) provides flood insurance coverage which is at least as broad as the coverage provided under a standard flood insurance policy under the national flood insurance program, including when considering deductibles, exclusions, and conditions offered by the insurer;

[(C) includes—

[(i) a requirement for the insurer to give 45 days' written notice of cancellation or non-renewal of flood insurance coverage to—

[(I) the insured; and

[(II) the regulated lending institution or Federal agency lender;

[(ii) information about the availability of flood insurance coverage under the national flood insurance program;

[(iii) a mortgage interest clause similar to the clause contained in a standard flood insurance policy under the national flood insurance program; and

[(iv) a provision requiring an insured to file suit not later than 1 year after date of a written denial of all or part of a claim under the policy; and

[(D) contains cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the national flood insurance program.]

(7) *DEFINITIONS.—In this section:*

(A) *FEDERAL FLOOD INSURANCE.—The term “Federal flood insurance” means an insurance policy made available under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).*

(B) *FLOOD INSURANCE.—The term “flood insurance” means—*

(i) Federal flood insurance; and

(ii) private flood insurance.

(C) *MUTUAL AID SOCIETY.—The term “mutual aid society” means an organization—*

(i) the members of which—

(I) share a common set of ethical or religious beliefs; and

(II) in accordance with the beliefs described in subclause (I), agree to cover expenses arising from damage to property of the members of the organization, including damage caused by flooding; and

(ii) that has a demonstrated history of fulfilling the terms of agreements to cover expenses arising from damage to property of the members of the organization caused by flooding.

(D) *PRIVATE FLOOD INSURANCE.—The term “private flood insurance” means—*

(i) an insurance policy that—

(I) is issued by an insurance company that is—

(aa) licensed, admitted, or otherwise approved to engage in the business of insurance in the State in which the insured building is located, by the insurance regulator of that State; or

(bb) eligible as a nonadmitted insurer to provide insurance in the home State of the insured, in accordance with sections 521 through 527 of the Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8201 through 8206);

(II) is issued by an insurance company that is not otherwise disapproved as a surplus lines insurer by the insurance regulator of the State in which the property to be insured is located; and

(III) provides flood insurance coverage that complies with the laws and regulations of that State; or

(ii) an agreement with a mutual aid society for such society to cover expenses arising from damage to property of the members of such society caused by flooding, unless the State in which the property to be insured is located has—

(I) determined that the specific mutual aid society may not provide such coverage or provide such coverage in such manner; or

(II) specifically provided through law or regulation that mutual aid societies may not provide such coverage or provide such coverage in such manner.

(E) STATE.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(c) EXCEPTIONS TO PURCHASE REQUIREMENTS.—

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

(2) SMALL LOANS.—Notwithstanding any other provision of this section, subsections (a) and (b) shall not apply to any loan having—

(A) an original outstanding principal balance of ~~[\$5,000 or less]~~ \$25,000 or less, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation by the Administrator upon the expiration of the 5-year period beginning upon the enactment of the 21st Century Flood Reform Act and upon the expiration of each successive 5-year period thereafter, in accordance with an inflationary index selected by the Administrator ; and

(B) a repayment term of 1 year or less.

(3) DETACHED STRUCTURES.—Notwithstanding any other provision of this section, flood insurance shall not be required, in the case of any residential property, for any structure that is a part of such property but is detached from the primary residential structure of such property and does not serve as a residence.

(d) ESCROW OF FLOOD INSURANCE PAYMENTS.—

(1) REGULATED LENDING INSTITUTIONS.—

(A) FEDERAL ENTITIES RESPONSIBLE FOR LENDING REGULATIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that all premiums and fees for flood insurance under the National Flood Insurance Act of 1968, for residential improved real estate or a mobile home, shall be paid to the regulated lending institution or servicer for any loan secured by the residential improved real estate or mobile home, with the same frequency as payments on the loan are made, for the duration of the loan. Except as provided in subparagraph (B), upon receipt of any premiums or fees, the regulated lending institution or servicer shall deposit such premiums and fees in an escrow account on behalf of the borrower. Upon receipt of a notice from the Administrator or the provider of the flood insurance that insurance premiums are due, the premiums deposited in the escrow account shall be paid to the provider of the flood insurance.

(B) LIMITATION.—Except as may be required under applicable State law, a Federal entity for lending regulation may not direct or require a regulated lending institution to deposit premiums or fees for flood insurance under the National Flood Insurance Act of 1968 in an escrow account on behalf of a borrower under subparagraph (A)—

(i) if—

(I) the regulated lending institution has total assets of less than \$1,000,000,000; and

(II) on or before the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012, the regulated lending institution—

(aa) in the case of a loan secured by residential improved real estate or a mobile home, was not required under Federal or State law to deposit taxes, insurance premiums, fees, or any other charges in an escrow account for the entire term of the loan; and

(bb) did not have a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for loans secured by residential improved real estate or a mobile home; or

(ii) in the case of a loan that—

(I) is in a junior or subordinate position to a senior lien secured by the same residential improved real estate or mobile home for which flood insurance is being provided at the time of the origination of the loan;

(II) is secured by residential improved real estate or a mobile home that is part of a condominium, cooperative, or other project development,

if the residential improved real estate or mobile home is covered by a flood insurance policy that—

(aa) meets the requirements that the regulated lending institution is required to enforce under subsection (b)(1);

(bb) is provided by the condominium association, cooperative, homeowners association, or other applicable group; and

(cc) the premium for which is paid by the condominium association, cooperative, homeowners association, or other applicable group as a common expense;

(III) is secured by residential improved real estate or a mobile home that is used as collateral for a business purpose;

(IV) is a home equity line of credit;

(V) is a nonperforming loan; or

(VI) has a term of not longer than 12 months.

(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require and provide for escrow and payment of any flood insurance premiums and fees relating to residential improved real estate and mobile homes securing loans made by the Federal agency lender under the circumstances and in the manner provided under paragraph (1). Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

(3) APPLICABILITY OF RESPA.—Escrow accounts established pursuant to this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974.

(4) DEFINITION.—For purposes of this subsection, the term “residential improved real estate” means improved real estate for which the improvement is a residential building.

(5) APPLICABILITY.—This subsection shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

(e) PLACEMENT OF FLOOD INSURANCE BY LENDER.—

(1) NOTIFICATION TO BORROWER OF LACK OF COVERAGE.—

[If] *Subject to subsection (i) of this section, if* , at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the Administrator (at the time of the origination of the loan or at any time during the term of the loan) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to paragraph (1), (2), or (3) of subsection (b), the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the bor-

rower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1), for the term of the loan.

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

(3) TERMINATION OF FORCE-PLACED INSURANCE.—Within 30 days of receipt by the lender or servicer of a confirmation of a borrower's existing flood insurance coverage, the lender or servicer shall—

(A) terminate any insurance purchased by the lender or servicer under paragraph (2); and

(B) refund to the borrower all premiums paid by the borrower for any insurance purchased by the lender or servicer under paragraph (2) during any period during which the borrower's flood insurance coverage and the insurance coverage purchased by the lender or servicer were each in effect, and any related fees charged to the borrower with respect to the insurance purchased by the lender or servicer during such period.

(4) SUFFICIENCY OF DEMONSTRATION.—For purposes of confirming a borrower's existing flood insurance coverage, a lender or servicer for a loan shall accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or agent.

(5) REVIEW OF DETERMINATION REGARDING REQUIRED PURCHASE.—

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

(B) EFFECT OF DETERMINATION.—Any person to whom a borrower provides a letter issued by the Administrator pursuant to subparagraph (A), stating that the building or mobile home securing the loan of the borrower is not in an area having special flood hazards, shall have no obligation under this title to require the purchase of flood insurance

for such building or mobile home during the period determined by the Administrator which shall be specified in the letter and shall begin on the date on which such letter is provided.

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

(6) APPLICABILITY.—This subsection shall apply to all loans outstanding on or after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

(f) CIVIL MONETARY PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.—

(1) CIVIL MONETARY PENALTIES AGAINST REGULATED LENDERS.—Any regulated lending institution that is found to have a pattern or practice of committing violations under paragraph (2) shall be assessed a civil penalty by the appropriate Federal entity for lending regulation in the amount provided under paragraph (5).

(2) LENDER VIOLATIONS.—The violations referred to in paragraph (1) shall include—

(A) making, increasing, extending, or renewing loans in violation of—

(i) the regulations issued pursuant to subsection (b) of this section;

(ii) the escrow requirements under subsection (d) of this section; or

(iii) the notice requirements under section 1364 of the National Flood Insurance Act of 1968; or

(B) failure to provide notice or purchase flood insurance coverage in violation of subsection (e) of this section.

(3) CIVIL MONETARY PENALTIES AGAINST GSE'S.—

(A) IN GENERAL.—If the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation is found by the Director of the Federal Housing Finance Agency to have a pattern or practice of purchasing loans in violation of the procedures established pursuant to subsection (b)(3), the Director of such Office shall assess a civil penalty against such enterprise in the amount provided under paragraph (5) of this subsection.

(B) DEFINITION.—For purposes of this subsection, the term “enterprise” means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) NOTICE AND HEARING.—A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

(5) AMOUNT.—A civil monetary penalty under this subsection may not exceed ~~【\$2,000】~~ \$5,000 for each violation under paragraph (2) or paragraph (3).

(6) LENDER COMPLIANCE.—Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b).

(7) EFFECT OF TRANSFER ON LIABILITY.—Any sale or other transfer of a loan by a regulated lending institution that has committed a violation under paragraph (1), that occurs subsequent to the violation, shall not affect the liability of the transferring lender with respect to any penalty under this subsection. A lender shall not be liable for any violations relating to a loan committed by another regulated lending institution that previously held the loan.

(8) DEPOSIT OF PENALTIES.—Any penalties collected under this subsection shall be paid into the National Flood Mitigation Fund under section 1367 of the National Flood Insurance Act of 1968.

(9) ADDITIONAL PENALTIES.—Any penalty under this subsection shall be in addition to any civil remedy or criminal penalty otherwise available.

(10) STATUTE OF LIMITATIONS.—No penalty may be imposed under this subsection after the expiration of the 4-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under this subsection.

(g) OTHER ACTIONS TO REMEDY PATTERN OF NONCOMPLIANCE.—

(1) AUTHORITY OF FEDERAL ENTITIES FOR LENDING REGULATION.—A Federal entity for lending regulation may require a regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution complies with the requirements of the national flood insurance program if the Federal agency for lending regulation makes a determination under paragraph (2) regarding the regulated lending institution.

(2) DETERMINATION OF VIOLATIONS.—A determination under this paragraph shall be a finding that—

(A) the regulated lending institution has engaged in a pattern and practice of noncompliance in violation of the regulations issued pursuant to subsection (b), (d), or (e) or the notice requirements under section 1364 of the National Flood Insurance Act of 1968; and

(B) the regulated lending institution has not demonstrated measurable improvement in compliance despite the assessment of civil monetary penalties under subsection (f).

(h) FEE FOR DETERMINING LOCATION.—Notwithstanding any other Federal or State law, any person who makes a loan secured by improved real estate or a mobile home or any servicer for such a loan may charge a reasonable fee for the costs of determining whether the building or mobile home securing the loan is located

in an area having special flood hazards, but only in accordance with the following requirements:

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

(A) is made pursuant to the making, increasing, extending, or renewing of the loan that is initiated by the borrower;

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

(C) results in the purchase of flood insurance coverage pursuant to the requirement under subsection (e)(2).

(2) PURCHASER OR TRANSFEREE FEE.—The purchaser or transferee of such a loan may be charged the fee in the case of sale or transfer of the loan.

(i) SATISFACTION OF MANDATORY PURCHASE REQUIREMENT IN STATES ALLOWING ALL-PERILS POLICIES.—

(1) WAIVERS.—Section 102 shall not apply with respect to residential properties in any State that allows any property insurance coverage that covers “all-perils” except specifically excluded perils that includes coverage for flood perils in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of flood insurance coverage made available under this title with respect to such type of residential property, whichever is less.

(2) DEFINITIONS, PROCEDURES, STANDARDS.—The Administrator may establish such definitions, procedures, and standards as the Administrator considers necessary for making determinations under paragraph (1).

(j) FLOOD INSURANCE PURCHASE REQUIREMENTS.—Notwithstanding any other provision of law, a State or local government or private lender may require the purchase of flood insurance coverage for a structure that is located outside of an area having special flood hazards.

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**BIGGERT-WATERS FLOOD INSURANCE REFORM ACT OF
2012**

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DIVISION F—MISCELLANEOUS

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TITLE II—FLOOD INSURANCE

Subtitle A—Flood Insurance Reform and Modernization

* * * * *

SEC. 100216. NATIONAL FLOOD MAPPING PROGRAM.

(a) REVIEWING, UPDATING, AND MAINTAINING MAPS.—The Administrator, in coordination with the Technical Mapping Advisory Council established under section 100215, shall establish an ongoing program under which the Administrator shall review, update, and maintain National Flood Insurance Program rate maps in accordance with this section.

(b) MAPPING.—

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

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

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

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

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

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

(v) areas that are protected by non-structural flood mitigation features; and

(vi) the level of protection provided by flood control structures and by non-structural flood mitigation features;

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

(C) use, in identifying, reviewing, updating, maintaining, or publishing any National Flood Insurance Program rate map required under this section or under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), the most accurate topography and elevation data available~~[\.]~~; *and*

(D) *consult and coordinate with the Department of Defense, the United States Geological Survey, and the National Oceanic and Atmospheric Administration for the purpose of obtaining the most-up-to-date maps and other information of such agencies, including information on topography, water flow, and any other issues, relevant to mapping for flood insurance purposes.*

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

(A) assess the accuracy of current ground elevation data used for hydrologic and hydraulic modeling of flooding sources and mapping of the flood hazard and wherever necessary acquire new ground elevation data utilizing the most up-to-date geospatial technologies in accordance with guidelines and specifications of the Federal Emergency Management Agency; and

(B) develop National Flood Insurance Program flood data on a watershed basis—

(i) to provide the most technically effective and efficient studies and hydrologic and hydraulic modeling; and

(ii) to eliminate, to the maximum extent possible, discrepancies in base flood elevations between adjacent political subdivisions.

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

(A) any relevant information on coastal inundation from—

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

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

(B) any relevant information of the United States Geological Survey on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Administrator;

(C) any relevant information on land subsidence, coastal erosion areas, changing lake levels, and other flood-related hazards;

(D) any relevant information or data of the National Oceanic and Atmospheric Administration and the United States Geological Survey relating to the best available science regarding future changes in sea levels, precipitation, and intensity of hurricanes; **[and]**

(E) any other information relevant to mapping for flood insurance purposes obtained pursuant to paragraph (1)(D); and

[(E)] (F) any other relevant information as may be recommended by the Technical Mapping Advisory Committee.

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

(1) establish standards to—

(A) ensure that maps are adequate for—

(i) flood risk determinations; and

(ii) use by State and local governments in managing development to reduce the risk of flooding; and

(B) facilitate identification and use of consistent methods of data collection and analysis by the Administrator, in conjunction with State and local governments, in developing maps for communities with similar flood risks, as determined by the Administrator; and

(2) publish maps in a format that is—

(A) digital geospatial data compliant;

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

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

(d) COMMUNICATION AND OUTREACH.—

(1) IN GENERAL.—The Administrator shall—

(A) before commencement of any mapping or map updating process, notify each community affected of the model or models that the Administrator plans to use in such process and provide an explanation of why such model or models are appropriate;

(B) provide each community affected a *maximum* 30-day period beginning upon notification under subparagraph (A) to consult with the Administrator regarding the appropriateness, with respect to such community, of the mapping model or models to be used; provided that consultation by a community pursuant to this subparagraph shall not waive or otherwise affect any right of the community to appeal any flood hazard determinations;

(C) upon completion of the first Independent Data Submission, transmit a copy of such Submission to the affected community, provide the affected community a *maximum* 30-day period during which the community may provide data to Administrator that can be used to supplement or modify the existing data, and incorporate any data that is consistent with prevailing engineering principles;

(D) work with States, local communities, and property owners to identify areas and features described in subsection (b)(1)(A)(v);

(E) work to enhance communication and outreach to States, local communities, and property owners about the effects—

(i) of any potential changes to National Flood Insurance Program rate maps that may result from the mapping program required under this section; and

(ii) that any such changes may have on flood insurance purchase requirements;

(F) engage with local communities to enhance communication and outreach to the residents of such communities, including tenants (with regard to contents insurance), on the matters described under subparagraph (E); and

(G) not less than 30 days before issuance of any preliminary map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the preliminary map in writing of—

(i) the estimated schedule for—

(I) community meetings regarding the preliminary map;

(II) publication of notices regarding the preliminary map in local newspapers; and

(III) the commencement of the appeals process regarding the map; and

(ii) the estimated number of homes and businesses that will be affected by changes contained in the preliminary map, including how many structures will be that were not previously located in an area having special flood hazards will be located within such an area under the preliminary map; and

(H) upon the issuance of any proposed map and any notice of an opportunity to make an appeal relating to the proposed map, notify the Senators for each State affected each Member of the House of Representatives for each congressional district affected by the proposed map of any action taken by the Administrator with respect to the proposed map or an appeal relating to the proposed map.

(2) REQUIRED ACTIVITIES.—The communication and outreach activities required under paragraph (1) shall include—

(A) notifying property owners when their properties become included in, or when they are excluded from, an area covered by the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a);

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

(C) educating property owners regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) for such properties and the contents of such properties;

(D) educating property owners about flood map revisions and the process available to such owners to appeal proposed changes in flood elevations through their community, including by notifying local radio and television stations; and

(E) encouraging property owners to maintain or acquire flood insurance coverage.

(e) COMMUNITY REMAPPING REQUEST.—Upon the adoption by the Administrator of any recommendation by the Technical Mapping Advisory Council for reviewing, updating, or maintaining National Flood Insurance Program rate maps in accordance with this section, a community that believes that its flood insurance rates in effect prior to adoption would be affected by the adoption of such recommendation may submit a request for an update of its rate maps, which may be considered at the Administrator’s sole discretion. The Administrator shall establish a protocol for the evaluation of such community map update requests.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$400,000,000 for each of fiscal years 2013 through 2017.

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FEDERAL DEPOSIT INSURANCE ACT

* * * * *

SEC. 10. (a) The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination. The Board of Directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The Corporation shall be entitled to the free use of the United States mails in the same manner as the executive departments of the Government. The Corporation with the consent of any Federal Reserve bank or of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this Act.

(b) EXAMINATIONS.—

(1) APPOINTMENT OF EXAMINERS AND CLAIMS AGENTS.—The Board of Directors shall appoint examiners and claims agents.

(2) REGULAR EXAMINATIONS.—Any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to examine—

(A) any insured State nonmember bank or insured State branch of any foreign bank;

(B) any depository institution which files an application with the Corporation to become an insured depository institution; and

(C) any insured depository institution in default, whenever the Board of Directors determines an examination of any such depository institution is necessary.

(3) SPECIAL EXAMINATION OF ANY INSURED DEPOSITORY INSTITUTION.—

(A) IN GENERAL.—In addition to the examinations authorized under paragraph (2), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make any special examination of any insured depository institution or nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a) of the Financial Stability Act of 2010, whenever the Board of Directors determines that a special examination of any such depository institution is necessary to determine the condition of such depository institution for insurance purposes, or of such nonbank financial company supervised by the Board of Governors or bank holding company described in section 165(a) of the Financial Stability Act of 2010, for the purpose of implementing its authority to provide for orderly liquidation of any such company under title II of that Act, provided that such authority may not be used with respect to any such company that is in a generally sound condition.

(B) LIMITATION.—Before conducting a special examination of a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a) of the Financial Stability Act of 2010, the Corporation shall review any available and acceptable res-

olution plan that the company has submitted in accordance with section 165(d) of that Act, consistent with the nonbinding effect of such plan, and available reports of examination, and shall coordinate to the maximum extent practicable with the Board of Governors, in order to minimize duplicative or conflicting examinations.

(4) EXAMINATION OF AFFILIATES.—

(A) IN GENERAL.—In making any examination under paragraph (2) or (3), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make such examinations of the affairs of any affiliate of any depository institution as may be necessary to disclose fully—

- (i) the relationship between such depository institution and any such affiliate; and
- (ii) the effect of such relationship on the depository institution.

(B) COMMITMENT BY FOREIGN BANKS TO ALLOW EXAMINATIONS OF AFFILIATES.—No branch or depository institution subsidiary of a foreign bank may become an insured depository institution unless such foreign bank submits a written binding commitment to the Board of Directors to permit any examination of any affiliate of such branch or depository institution pursuant to subparagraph (A) to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act.

(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.

(6) POWER AND DUTY OF EXAMINERS.—Each examiner appointed under paragraph (1) shall—

(A) have power to make a thorough examination of any insured depository institution or affiliate under paragraph (2), (3), (4), or (5); and

(B) shall make a full and detailed report of condition of any insured depository institution or affiliate examined to the Corporation.

(7) POWER OF CLAIM AGENTS.—Each claim agent appointed under paragraph (1) shall have power to investigate and examine all claims for insured deposits.

(c) In connection with examinations of insured depository institutions and any State nonmember bank, savings association, or other institution making application to become insured depository institutions, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank

or institution or affiliate thereof, and to exercise such other powers as are set forth in section 8(n) of this Act.

(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

(1) IN GENERAL.—The appropriate Federal banking agency shall, not less than once during each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

(2) EXAMINATIONS BY CORPORATION.—Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted a full-scope, on-site examination of the insured depository institution.

(3) STATE EXAMINATIONS ACCEPTABLE.—The examinations required by paragraph (1) may be conducted in alternate 12-month periods, as appropriate, if the appropriate Federal banking agency determines that an examination of the insured depository institution conducted by the State during the intervening 12-month period carries out the purpose of this subsection.

(4) 18-MONTH RULE FOR CERTAIN SMALL INSTITUTIONS.—Paragraphs (1), (2), and (3) shall apply with “18-month” substituted for “12-month” if—

(A) the insured depository institution has total assets of less than \$1,000,000,000;

(B) the institution is well capitalized, as defined in section 38;

(C) when the institution was most recently examined, it was found to be well managed, and its composite condition—

(i) was found to be outstanding; or

(ii) was found to be outstanding or good, in the case of an insured depository institution that has total assets of not more than \$200,000,000;

(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and

(E) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

(5) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Paragraph (1) does not apply to—

(A) any institution for which the Corporation is conservator; or

(B) any bridge depository institution, none of the voting securities of which are owned by a person or agency other than the Corporation.

(6) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of insured depository institutions—

(A) each appropriate Federal banking agency shall, to the extent practicable and consistent with principles of safety and soundness and the public interest—

(i) coordinate examinations to be conducted by that agency at an insured depository institution and its affiliates;

(ii) coordinate with the other appropriate Federal banking agencies in the conduct of such examinations;
 (iii) work to coordinate with the appropriate State bank supervisor—

(I) the conduct of all examinations made pursuant to this subsection; and

(II) the number, types, and frequency of reports required to be submitted to such agencies and supervisors by insured depository institutions, and the type and amount of information required to be included in such reports; and

(iv) use copies of reports of examinations of insured depository institutions made by any other Federal banking agency or appropriate State bank supervisor to eliminate duplicative requests for information; and

(B) not later than 2 years after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the Federal banking agencies shall jointly establish and implement a system for determining which one of the Federal banking agencies or State bank supervisors shall be the lead agency responsible for managing a unified examination of each insured depository institution and its affiliates, as required by this subsection.

(7) SEPARATE EXAMINATIONS PERMITTED.—Notwithstanding paragraph (6), each appropriate Federal banking agency may conduct a separate examination in an emergency or under other exigent circumstances, or when the agency believes that a violation of law may have occurred.

(8) REPORT.—At the time the system provided for in paragraph (6) is established, the Federal banking agencies shall submit a joint report describing the system to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Thereafter, the Federal banking agencies shall annually submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives regarding the progress of the agencies in implementing the system and indicating areas in which enhancements to the system, including legislature improvements, would be appropriate.

(9) STANDARDS FOR DETERMINING ADEQUACY OF STATE EXAMINATIONS.—The Federal Financial Institutions Examination Council shall issue guidelines establishing standards to be used at the discretion of the appropriate Federal banking agency for purposes of making a determination under paragraph (3).

(10) AGENCIES AUTHORIZED TO INCREASE MAXIMUM ASSET AMOUNT OF INSTITUTIONS FOR CERTAIN PURPOSES.—At any time after the end of the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the appropriate Federal banking agency, in the agency's discretion, may increase the maximum amount limitation contained in paragraph (4)(C)(ii), by regulation, from \$200,000,000 to an amount not to exceed

\$1,000,000,000 for purposes of such paragraph, if the agency determines that the greater amount would be consistent with the principles of safety and soundness for insured depository institutions.

(e) EXAMINATION FEES.—

(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) or of any entity described in section 3(q)(2) may be assessed by the Corporation against the institution or entity to meet the expenses of the Corporation in carrying out such examinations.

(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined to meet the Corporation's expenses in carrying out such examination.

(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

(i) refuses to pay any assessment under paragraph (2); or

(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than \$5,000 for each day that any such refusal continues.

(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.

(f) PRESERVATION OF AGENCY RECORDS.—

(1) IN GENERAL.—A Federal banking agency may cause any and all records, papers, or documents kept by the agency or in the possession or custody of the agency to be—

(A) photographed or microphotographed or otherwise reproduced upon film; or

(B) preserved in any electronic medium or format which is capable of—

(i) being read or scanned by computer; and

(ii) being reproduced from such electronic medium or format by printing any other form of reproduction of electronically stored data.

(2) TREATMENT AS ORIGINAL RECORDS.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

(3) AUTHORITY OF THE FEDERAL BANKING AGENCIES.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be preserved in such manner as the Federal banking agency shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Federal banking agency may direct.

(g) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Except to the extent that authority under this Act is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may—

(1) prescribe regulations to carry out this Act; and

(2) by regulation define terms as necessary to carry out this Act.

(h) COORDINATION OF EXAMINATION AUTHORITY.—

(1) STATE BANK SUPERVISORS OF HOME AND HOST STATES.—

(A) HOME STATE OF BANK.—The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank.

(B) HOST STATE BRANCHES.—The State bank supervisor of the home State of an insured State bank and any State bank supervisor of an appropriate host State shall exercise its respective authority to supervise and examine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State.

(C) SUPERVISORY FEES.—Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and any host State of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

(2) HOST STATE EXAMINATION.—

(A) IN GENERAL.—With respect to a branch operated in a host State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44, or that was established in such State pursuant to section 5155(g) of the Revised Statutes of the United States, the third undesignated paragraph of section 9 of the Federal Reserve Act or section 18(d)(4) of this Act, the appropriate State bank supervisor of such host State may—

(i) with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose of determining compliance with host State laws that are applicable pursuant to section 24(j), including those that govern community reinvestment, fair lending, and consumer protection; and

(ii) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank's home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank's home State or the bank's appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank's home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner.

(B) NOTICE OF DETERMINATION.—

(i) IN GENERAL.—The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition.

(ii) TIMING OF NOTICE.—The State bank supervisor of the home State of an insured State bank shall provide notice under clause (i) as soon as is reasonably possible, but in all cases not later than 15 business days after the date on which the State bank supervisor has made such final determination or has received written notification of such final determination.

(3) HOST STATE ENFORCEMENT.—If the State bank supervisor of a host State determines that a branch of an out-of-State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section 24(j), including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

(4) COOPERATIVE AGREEMENT.—

(A) IN GENERAL.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

(B) DEFINITION.—For purposes of this subsection, the term “cooperative agreement” means a written agreement that is signed by the home State bank supervisor and the host State bank supervisor to facilitate State regulatory supervision of State banks, and includes nationwide or multi-State cooperative agreements and cooperative agreements solely between the home State and host State.

(C) RULE OF CONSTRUCTION.—Except for State bank supervisors, no provision of this subsection relating to such cooperative agreements shall be construed as limiting in any way the authority of home State and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 24(j).

(5) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of any Federal banking agency.

(6) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

(7) DEFINITIONS.—For purpose of this section, the following definitions shall apply:

(A) HOST STATE, HOME STATE, OUT-OF-STATE BANK.—The terms “host State”, “home State”, and “out-of-State bank” have the same meanings as in section 44(g).

(B) STATE SUPERVISORY FEES.—The term “State supervisory fees” means assessments, examination fees, branch fees, license fees, and all other fees that are levied or charged by a State bank supervisor directly upon an insured State bank or upon branches of an insured State bank.

(C) TROUBLED CONDITION.—Solely for purposes of paragraph (2)(B), an insured State bank has been determined to be in “troubled condition” if the bank—

(i) has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Ratings System;

(ii) is subject to a proceeding initiated by the Corporation for termination or suspension of deposit insurance; or

(iii) is subject to a proceeding initiated by the State bank supervisor of the bank's home State to vacate, revoke, or terminate the charter of the bank, or to liquidate the bank, or to appoint a receiver for the bank.

(D) FINAL DETERMINATION.—For purposes of paragraph (2)(B), the term “final determination” means the transmittal of a report of examination to the bank or transmittal of official notice of proceedings to the bank.

(i) FLOOD INSURANCE COMPLIANCE BY INSURED DEPOSITORY INSTITUTIONS.—

(1) EXAMINATIONS.—The appropriate Federal banking agency shall, during each scheduled on-site examination required by this section, determine whether the insured depository institution is complying with the requirements of the national flood insurance program.

(2) REPORT.—

(A) REQUIREMENT.—Not later than 1 year after the [date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years] *date of enactment of the 21st Century Flood Reform Act and biennially thereafter*, each appropriate Federal banking agency shall submit a report to the Congress on compliance by insured depository institutions with the requirements of the national flood insurance program.

(B) CONTENTS.—Each report submitted under this paragraph shall include a description of the methods used to determine compliance, the number of institutions examined during the reporting year, a listing and total number of institutions found not to be in compliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.

(j) CONSULTATION AMONG EXAMINERS.—

(1) IN GENERAL.—Each appropriate Federal banking agency shall take such action as may be necessary to ensure that examiners employed by the agency—

(A) consult on examination activities with respect to any depository institution; and

(B) achieve an agreement and resolve any inconsistencies in the recommendations to be given to such institution as a consequence of any examinations.

(2) EXAMINER-IN-CHARGE.—Each appropriate Federal banking agency shall consider appointing an examiner-in-charge with respect to a depository institution to ensure consultation on examination activities among all of the examiners of that agency involved in examinations of the institution.

(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term “depository institution” includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

(B) the term “depository institution holding company” includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

(3) RULES OF CONSTRUCTION.—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

(4) REGULATIONS.—

(A) IN GENERAL.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

(B) CONSULTATION REQUIRED.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent, comparable, and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

(5) WAIVER.—

(A) AGENCY AUTHORITY.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (in-

cluding any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

(B) DEFINITION.—For purposes of this paragraph, the head of an agency is—

(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System; and

(iii) the Chairperson of the Board of Directors, in the case of the Corporation.

(6) PENALTIES.—

(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall impose upon such person one or more of the following penalties:

(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal banking agency shall serve a written notice or order in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraph (1) or (2) of section 8(e), upon such person of the intention of the agency—

(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

(ii) CIVIL MONETARY PENALTY.—The Federal banking agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than \$250,000. Any administrative proceeding under this clause shall be conducted in accordance with section 8(i). In lieu of an action by the Federal banking agency under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court.

(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under subparagraph (A)(i) shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

(C) DEFINITIONS.—Solely for purposes of this paragraph, the “appropriate Federal banking agency” for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).

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FEDERAL CREDIT UNION ACT

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TITLE II—SHARE INSURANCE

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EXAMINATION OF INSURED CREDIT UNIONS

SEC. 204. (a) The Board shall appoint examiners who shall have power, on its behalf, to examine any insured credit union, any credit union making application for insurance of its member accounts, or any closed insured credit union whenever in the judgment of the Board an examination is necessary to determine the condition of any such credit union for insurance purposes. Each examiner shall have power to make a thorough examination of all of the affairs of the credit union and shall make a full and detailed report of the condition of the credit union to the Board. The Board in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured member accounts. Each claim agent shall have power to administer oaths and affirmations, to examine and to take and preserve testimony under oath as to any matter in respect to claims for insured accounts, and to issue subpoenas and subpoenas duces tecum and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the principal office of the credit union is located or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpoena.

(b) In connection with examinations of insured credit unions, or with other types of investigations to determine compliance with applicable law and regulations, the Board, or its designated representatives, shall have power to administer oaths and affirmations, to examine and to take and preserve testimony under oath as to any matter in respect of the affairs of any such credit union, and to issue subpoenas and subpoenas duces tecum and to exercise such other powers as are set forth in section 206(p) and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the principal office of the credit union is located or in which the witness resides or carries on business. Such courts shall have

jurisdiction and power to order and require compliance with any such subpoena.

(c) In cases of refusal to obey a subpoena issued to, or contumacy by, any person, the Board may invoke the aid of any court of the United States within the jurisdiction of which such hearing, examination, or investigation is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, records, or other papers. Such court may issue an order requiring such person to appear before the Board, or before a person designated by them, there to produce records, if so ordered, or to give testimony touching the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or carries on business or wherever he may be found. No person shall be excused from attending and testifying or from producing books, records, or other papers in obedience to a subpoena issued under the authority of this title on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(d) The Administration may accept any report of examination made by or to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of examination made on behalf of the Board.

(e) FLOOD INSURANCE COMPLIANCE BY INSURED CREDIT UNIONS.—

(1) EXAMINATION.—The Board shall, during each examination conducted under this section, determine whether the insured credit union is complying with the requirements of the national flood insurance program.

(2) REPORT.—

(A) REQUIREMENT.—Not later than 1 year after the [date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years] *date of enactment of the 21st Century Flood Reform Act and annually thereafter*, the Board shall submit a report to the Congress on compliance by insured credit unions with the requirements of the national flood insurance program.

(B) CONTENTS.—The report shall include a description of the methods used to determine compliance, the number of insured credit unions examined during the reporting year, a listing and total number of insured credit unions found not to be in compliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and

recommendations regarding reasonable actions to improve the efficiency of the examinations processes.

(f) ACCESS TO LIQUIDITY.—The Board shall—

(1) periodically assess the potential liquidity needs of each insured credit union, and the options that the credit union has available for meeting those needs; and

(2) periodically assess the potential liquidity needs of insured credit unions as a group, and the options that insured credit unions have available for meeting those needs.

(g) SHARING INFORMATION WITH FEDERAL RESERVE BANKS.—The Board shall, for the purpose of facilitating insured credit unions' access to liquidity, make available to the Federal reserve banks (subject to appropriate assurances of confidentiality) information relevant to making advances to such credit unions, including the Board's reports of examination.

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FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992

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TITLE XIII—GOVERNMENT SPONSORED ENTERPRISES

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Subtitle A—Supervision and Regulation of Enterprises

PART 1—FINANCIAL SAFETY AND SOUNDNESS REGULATOR

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SEC. 1319B. ANNUAL REPORTS BY DIRECTOR.

(a) GENERAL REPORT.—The Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than June 15 of each year, a written report, which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this title;

(2) a description of the financial safety and soundness of each regulated entity, including the results and conclusions of the annual examinations of the regulated entities conducted under section 1317(a);

(3) any recommendations for legislation to enhance the financial safety and soundness of the regulated entities;

(4) a description of—

(A) whether the procedures established by each regulated entity pursuant to section 102(b)(3) of the Flood Dis-

aster Protection Act of 1973 are adequate and being complied with, and

(B) the results and conclusions of any examination, as determined necessary by the Director, to determine the compliance of the regulated entities with the requirements of section 102(b)(3) of such Act, which shall include a description of the methods used to determine compliance and the types and sources of deficiencies (if any), and identify any corrective measures that have been taken to remedy any such deficiencies,

except that the information described in this paragraph shall be included only in each of the [first, third, and fifth annual reports under this subsection required to be submitted after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994] *first annual report under this subsection required to be submitted after the expiration of the 1-year period beginning on the date of enactment of the 21st Century Flood Reform Act and every such second annual report thereafter* ; and

(5) the assessment of the Board or any of its members with respect to—

(A) the safety and soundness of the regulated entities;

(B) any material deficiencies in the conduct of the operations of the regulated entities;

(C) the overall operational status of the regulated entities; and

(D) an evaluation of the performance of the regulated entities in carrying out their respective missions;

(6) operations, resources, and performance of the Agency; and

(7) such other matters relating to the Agency and the fulfillment of its mission.

(b) REPORT ON ENFORCEMENT ACTIONS.—Not later than March 15 of each year, the Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report describing, for the preceding calendar year, the requests by the Director to the Attorney General for enforcement actions under subtitle C and describing the disposition of each request, which shall include statements of—

(1) the total number of requests made by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to requests that resulted in the commencement of litigation—

(A) the number of days between the date of the request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation; and

(5) the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was

completed during the calendar year, and the number of requests pending at the end of the calendar year.

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MINORITY VIEWS

H.R. 2874 makes a number of changes to the National Flood Insurance Program (NFIP) that make flood insurance less affordable, less available, and less fair for consumers.

H.R. 2874 would make flood insurance less affordable by raising premiums, fees, and surcharges on policyholders, while doing nothing to address the NFIP's debt or the billions of dollars being spent on interest to service that debt. Specifically, H.R. 2874 would require the Federal Emergency Management Agency (FEMA) to raise premiums for pre-FIRM policyholders by a minimum of 8 percent a year. The bill would require FEMA to increase annual surcharges on all primary residences by 60 percent and increase annual surcharges for second homes that are not in preferred risk areas by 10 percent. The bill would also require FEMA to increase the Reserve Fund fee, which is already 15% of premiums, by one percent each year until the NFIP achieves a reserve ratio of 7.5 percent, which may take several years to reach. That is yet another cost added on to policyholders' already expensive premiums. Additionally, the bill would make flood insurance less affordable by eliminating grandfathering. This would cause homeowners who built to code and did everything right, to pay higher premiums associated with new flood maps that did not exist at the time the property was built. Further, the bill's attempt to address longterm affordability challenges makes matters worse. Although H.R. 2874 allows states to voluntarily set up an affordability program, the bill does not provide any funding for them to do so. States would bear the administrative costs of setting up the programs, while the costs of any discounts to eligible policyholders would be paid for by premium and fee increases on other policyholders within the state, increasing the affordability challenges for middle income policyholders.

H.R. 2874 would make flood insurance less available by prohibiting NFIP coverage for several classes of properties, subject to certain market conditions. Specifically, all newly constructed properties in a special flood hazard area (SFHA), any residential property with a replacement value higher than \$1 million, and multiple loss properties for which the aggregate amount in claims payments exceed twice the amount of the replacement value of the structure, would be barred from accessing federal flood insurance. Instead, these policyholders would be forced to purchase flood insurance in the private market, which remains undeveloped. Due to the market's current limitations, the bill attempts to provide a safety valve to allow consumers who cannot find or afford insurance in the private market the opportunity to return to the NFIP. However, policyholders would be charged an additional ten percent surcharge for failing to find coverage in the private market through no fault of their own. Further, this ill-conceived safety valve is not available

to properties with lifetime claims exceeding twice the amount of the structure's replacement value. Because the metric for excessive claims is based on the replacement value of the home, lower value homes will be disproportionately impacted, leaving these households at risk of displacement or overwhelming cost burdens. As borrowers lose NFIP coverage, and especially if alternative private coverage is not available or affordable, these properties will lose value and the risk of abandonment and/or foreclosure increases dramatically. The American Bankers Association (ABA) has warned that this provision could cause a decrease in property values because of the lack of available coverage and "DI some flood prone communities, this could lead to a local or regional foreclosure crisis."

H.R. 2874 would make flood insurance less fair for consumers by opening the door to the potential for cherry-picking of the lowest-risk properties by the private sector. Democrats support the responsible development of the private flood insurance market. However, H.R. 2874 would call for wholesale changes that undermine the NFIP and leave policyholders vulnerable in an untested private market. Specifically, H.R. 2874 would eliminate the non-compete clause that prevents Write-Your-Own (WYO) companies from offering their own competing private flood insurance policies. The non-compete clause is a long-standing condition of participation in the WYO Program and, according to FEMA, ensures that WYOs—who administer the NFIP while taking on none of the risk—do not inappropriately take advantage of their access to FEMA's data on policyholders to cherry pick or steer consumers towards a competing product. Eliminating the non-compete clause would also give WYOs an unfair competitive advantage compared to other private insurance companies, many of which have been able to successfully build a flood insurance portfolio without access to this data. Additionally, this bill would require FEMA to publicly disclose virtually all of its proprietary information related to claims, underwriting, and risks. While the bill stipulates that personally identifiable information is to be excluded, it is unclear how FEMA can comply with this requirement without violating the Privacy Act of 1974. Moreover, the sharing of proprietary information such as claims data is uncommon in the insurance industry. In fact, claims data and modeling information are the keys to competition amongst insurance companies and raises serious concerns about the potential for cherry-picking.

While an amendment to this bill added language to reauthorize the NFIP for five years, the refocus outlined above are too harmful to enact for five years. For these reasons, we oppose H.R. 2874.

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