

ance 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) Availability of insurance in States or areas evidencing positive interest in securing insurance and assuring adoption of adequate land use and control measures

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 4102 of this title, 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.

(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.

(Pub. L. 90-448, title XIII, §1305, Aug. 1, 1968, 82 Stat. 574; Pub. L. 91-152, title IV, §410(a), Dec. 24, 1969, 83 Stat. 397; Pub. L. 92-213, §2(c)(1), Dec. 22, 1971, 85 Stat. 775; Pub. L. 98-181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112-141, div. F, title II, §§100204, 100238(b)(1), July 6, 2012, 126 Stat. 916, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original a reference to “this title” meaning title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classi-

fication of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director”.

Subsec. (b). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director” in concluding provisions following par. (2).

Subsec. (b)(A). Pub. L. 112-141, §100204(1), which directed amendment of subsec. (b)(2)(A) by inserting “not described in subsection (a) or (d)” after “properties”, was executed by making the insertion in subpar. (A) following first concluding provisions to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director” in introductory provisions.

Subsec. (d). Pub. L. 112-141, §100204(2), added subsec. (d).

1983—Pub. L. 98-181 substituted “Director” for “Secretary” wherever appearing.

1971—Subsec. (a). Pub. L. 92-213 inserted reference to church properties.

1969—Subsec. (c)(2). Pub. L. 91-152 substituted “December 31, 1971, adequate” for “June 30, 1970, permanent”.

EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90-448, set out as a note under section 4001 of this title.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 4012a. Flood insurance purchase and compliance requirements and escrow accounts

(a) Amount and term of coverage

After the expiration of sixty days following December 31, 1973, 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 [42 U.S.C. 4001 et seq.], unless the building or mobile home and any personal property to which such financial assistance relates is covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance

or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan. The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.

(b) Requirement for mortgage loans

(1) Regulated lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974 [12 U.S.C. 3301 et seq.]) 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 [42 U.S.C. 4001 et seq.], 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 personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1)(A). Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence. Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1)(A).

(3) Government-sponsored enterprises for housing

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

(A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the 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 September 23, 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 September 23, 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 September 23, 1994, shall continue to apply until the regulations issued to carry out paragraph (1) as amended by section 522(a) of Public Law 103-325 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, is¹ 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.

(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; 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 regu-

¹ So in original. The word “is” probably should not appear.

lated 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 July 6, 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 [12 U.S.C. 2609].

(4) "Residential improved real estate" defined

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 September 23, 1994.

(e) Placement of flood insurance by lender

(1) Notification to borrower of lack of coverage

If, at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the 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 [42 U.S.C. 4001 et seq.], the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to paragraph (1), (2), or (3) of subsection (b), the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the borrower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1), for the term of the loan.

(2) Purchase of coverage on behalf of borrower

If the borrower fails to purchase such flood insurance within 45 days after notification under paragraph (1), the lender or servicer for the loan shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the 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 title² 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 title² 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 September 23, 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 commit-

ting 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 [42 U.S.C. 4104a]; 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 Office³ shall assess a civil penalty against such enterprise in the amount provided under paragraph (5) of this subsection.

(B) "Enterprise" defined

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 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.

² See References in Text note below.

³ So in original. Probably should be "Agency".

(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 [42 U.S.C. 4104d].

(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 non-compliance**(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 non-compliance 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 [42 U.S.C. 4104a]; 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)⁴ [42 U.S.C. 4101(f)] of the floodplain areas and flood-risk

zones or publication of a notice or compendia under subsection (h) or (i) of section 1360⁴ [42 U.S.C. 4101(h), (i)] 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.

(Pub. L. 93-234, title I, §102, Dec. 31, 1973, 87 Stat. 978; Pub. L. 98-181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103-325, title V, §§522-526, 531, 582(c), Sept. 23, 1994, 108 Stat. 2257-2262, 2267, 2287; Pub. L. 110-289, div. A, title I, §1161(e), July 30, 2008, 122 Stat. 2780; Pub. L. 112-141, div. F, title II, §§100208, 100209(a), 100238(a)(1), 100239(a), 100244(a), July 6, 2012, 126 Stat. 919, 920, 958, 966; Pub. L. 112-281, §1, Jan. 14, 2013, 126 Stat. 2485; Pub. L. 113-89, §§13(a), 25(a), Mar. 21, 2014, 128 Stat. 1026, 1030.)

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs. (a), (b), (d)(1), and (e)(1), and the Act, referred to in subsec. (b), is title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to this chapter (§4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Federal Financial Institutions Examination Council Act of 1974, referred to in subsec. (b)(1), probably means the Federal Financial Institutions Examination Council Act of 1978, Pub. L. 95-630, title X, Nov. 10, 1978, 92 Stat. 3694, which is classified principally to chapter 34 (§3301 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of Title 12 and Tables.

Section 522(a) of Public Law 103-325, referred to in subsec. (b)(4)(C), was in original “section 522(a) of such Act”, which generally amended subsec. (b) of this section.

This title, referred to in subsec. (e)(5)(B), (C), means title I of Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 977, which enacted this section and section 4104 of this title and amended sections 4001, 4013 to 4016, 4026, 4054, 4056, and 4121 of this title.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2014—Subsec. (c)(3). Pub. L. 113-89, §13(a), added par. (3).

Subsec. (d)(1)(A). Pub. L. 113-89, §25(a)(1), substituted “subparagraph (B)” for “subparagraph (C)”.

Subsec. (d)(1)(B). Pub. L. 113-89, §25(a)(2), substituted “under subparagraph (A)—” for “under subparagraph (A) or (B), if—” in introductory provisions, designated existing provisions as cl. (i) and inserted “if—” after cl. (i) designation, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i), redesignated former subcls. (I) and (II) as items (aa) and (bb), respectively, of subcl. (II), and added cl. (ii).

⁴So in original. Probably should be followed by “of the National Flood Insurance Act of 1968”.

2013—Subsec. (d)(1)(A). Pub. L. 112-281 inserted “residential” before “improved real estate” in two places.

2012—Subsec. (a). Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (b)(1). Pub. L. 112-141, §100239(a)(1), substituted “; and” for period at end, substituted “institutions—” for “institutions”, inserted subpar. (A) designation before “not to make”, and added subpar. (B).

Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (b)(2). Pub. L. 112-141, §100239(a)(2), substituted “paragraph (1)(A)” for “paragraph (1)” in two places and inserted “Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence.” after first sentence.

Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (b)(3). Pub. L. 112-141, §100239(a)(3), substituted “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.” for “paragraph (1).” in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (b)(5) to (7). Pub. L. 112-141, §100239(a)(4), added pars. (5) to (7).

Subsec. (c)(1). Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director” in two places.

Subsec. (d)(1). Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director”.

Pub. L. 112-141, §100209(a), amended par. (1) generally. Prior to amendment, text read as follows: “Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the Administrator or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed.”

Subsec. (e)(1). Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (e)(2). Pub. L. 112-141, §100244(a)(1), substituted “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” for “purchasing the insurance”.

Subsec. (e)(3). Pub. L. 112-141, §100244(a)(3), added par. (3). Former par. (3) redesignated (5).

Subsec. (e)(3). Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director” wherever appearing.

Subsec. (e)(4) to (6). Pub. L. 112-141, §100244(a)(2), (3), added par. (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

Subsec. (f)(5). Pub. L. 112-141, §100208, substituted “\$2,000” for “\$350” and struck out at end “The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed \$100,000.”

Subsec. (h)(1)(B). Pub. L. 112-141, §100238(a)(1), substituted “Administrator” for “Director”.

2008—Subsec. (f)(3)(A). Pub. L. 110-289 substituted “Director of the Federal Housing Finance Agency” for “Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development”.

1994—Pub. L. 103-325, §531, substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103-325, §582(c), struck out “, during the anticipated economic or useful life of the project,” before “covered by flood insurance” and inserted at end “The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.”

Subsec. (b). Pub. L. 103-325, §522(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after the expiration of sixty days following December 31, 1973, any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director 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 to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.”

Subsec. (c). Pub. L. 103-325, §522(b), inserted heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsecs. (d) to (h). Pub. L. 103-325, §§523-526, added subsecs. (d) to (h).

1983—Pub. L. 98-181 substituted “Director” for “Secretary” wherever appearing.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-89, §25(b)(1), Mar. 21, 2014, 128 Stat. 1031, provided that:

“(1) IN GENERAL.—

“(A) REQUIRED APPLICATION.—The amendments to section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)) made by section 100209(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112-141; 126 Stat. 920) and by subsection (a) of this section shall apply to any loan that is originated, refinanced, increased, extended, or renewed on or after January 1, 2016.

“(B) OPTIONAL APPLICATION.—

“(i) DEFINITIONS.—In this subparagraph—

“(I) the terms ‘Federal entity for lending regulation’, ‘improved real estate’, ‘regulated lending institution’, and ‘servicer’ have the meanings given the terms in section 3 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003);

“(II) the term ‘outstanding loan’ means a loan that—

“(aa) is outstanding as of January 1, 2016;

“(bb) is not subject to the requirement to escrow premiums and fees for flood insurance under section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)) as in effect on July 5, 2012; and

“(cc) would, if the loan had been originated, refinanced, increased, extended, or renewed on or after January 1, 2016, be subject to the requirements under section 102(d)(1)(A) of the

Flood Disaster Protection Act of 1973, as amended; and

“(III) the term ‘section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973, as amended’ means section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)(A)), as amended by—

“(aa) section 100209(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112-141; 126 Stat. 920); and

“(bb) subsection (a) of this section.

“(ii) OPTION TO ESCROW FLOOD INSURANCE PAYMENTS.—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that each regulated lending institution or servicer of an outstanding loan shall offer and make available to a borrower the option to have the borrower’s payment of premiums and fees for flood insurance under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), including the escrow of such payments, be treated in the same manner provided under section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973, as amended.”

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-141, div. F, title II, § 100209(b), July 6, 2012, 126 Stat. 920, which provided that the amendment made to this section by section 100209(a) of Pub. L. 112-141 would apply to any mortgage outstanding or entered into on or after the expiration of the 2-year period beginning on July 6, 2012, was repealed by Pub. L. 113-89, § 25(b)(2), Mar. 21, 2014, 128 Stat. 1032. For effective date of amendment by section 100209(a) of Pub. L. 112-141, see Effective Date of 2014 Amendment note above.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 582(c) of Pub. L. 103-325 applicable to disasters declared after Sept. 23, 1994, see section 5154a(e) of this title.

RULE OF CONSTRUCTION

Pub. L. 113-89, § 25(b)(3), Mar. 21, 2014, 128 Stat. 1032, provided that: “Nothing in this section [amending this section and enacting and repealing provisions set out as notes under this section] or the amendments made by this section shall be construed to supersede, during the period beginning on July 6, 2012 and ending on December 31, 2015, the requirements under section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)), as in effect on July 5, 2012.”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TREATMENT OF FLOODPROOFED RESIDENTIAL BASEMENTS

Pub. L. 113-89, § 21, Mar. 21, 2014, 128 Stat. 1028, provided that: “The Administrator [of the Federal Emergency Management Agency] shall continue to extend exceptions and variances for flood-proofed basements consistent with section 60.6 of title 44, Code of Federal

Regulations, which are effective April 3, 2009; and section 60.3 of such title, which are effective April 3, 2009.”

§ 4013. Nature and limitation of insurance coverage

(a) Regulations respecting general terms and conditions of insurability

The Administrator shall from time to time, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, 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 4012 of this title, including—

- (1) the types, classes, and locations of any such properties which shall be eligible for flood insurance;
- (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 chapter.

(b) Regulations respecting amount of coverage

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 4015 of this title which are less than the estimated premium rates under section 4014(a)(1) of this title 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 aggregate liability with respect to any single structure, including any contents thereof related to premises of small business occupants (as that 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 li-