

# Union Calendar No. 199

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4320

[Report No. 109-370]

To restore the financial solvency of the national flood insurance program,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2005

Mr. OXLEY (for himself and Mr. FRANK of Massachusetts) introduced the  
following bill; which was referred to the Committee on Financial Services

FEBRUARY 1, 2006

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on November 15, 2005]

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## A BILL

To restore the financial solvency of the national flood  
insurance program, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “National Flood Insur-*  
3 *ance Program Commitment to Policyholders and Reform*  
4 *Act of 2005”.*

5 **SEC. 2. FINDINGS AND PURPOSES.**

6       (a) *FINDINGS.*—*The Congress finds that—*

7               (1) *the amount of the flood insurance claims re-*  
8 *sulting from Hurricane Katrina and Hurricane Rita*  
9 *will likely exceed the aggregate amount of all claims*  
10 *previously paid in the history of the national flood*  
11 *insurance program, and will require an increase in*  
12 *the program’s borrowing authority;*

13              (2) *flood insurance policyholders have a legiti-*  
14 *mate expectation that they will receive fair and time-*  
15 *ly compensation for losses covered under their poli-*  
16 *cies;*

17              (3) *substantial flooding has occurred, and will*  
18 *likely occur again, outside of the areas designated as*  
19 *the 100-year floodplain;*

20              (4) *to adequately and correctly assess potential*  
21 *flood damage and losses in all areas on the United*  
22 *States, the national flood insurance program will*  
23 *need to update its flood maps with the latest tech-*  
24 *nology;*

1           (5) *the maximum coverage limits for flood insur-*  
2           *ance policies should be increased to reflect inflation*  
3           *and the increased cost of housing;*

4           (6) *significant reforms to the national flood in-*  
5           *surance program required in the Bunning-Bereuter-*  
6           *Blumenauer Flood Insurance Reform Act of 2004*  
7           *have yet to be implemented; and*

8           (7) *despite reforms required in the Bunning-Be-*  
9           *reuter-Blumenauer Flood Insurance Reform Act of*  
10          *2004, the national flood insurance program requires*  
11          *a modernized and updated administrative model to*  
12          *ensure that the people of the United States have con-*  
13          *tinued access to flood insurance.*

14          (b) *PURPOSES.—The purposes of this Act are—*

15               (1) *to protect the integrity of the national flood*  
16               *insurance program by fully funding existing legal ob-*  
17               *ligations expected by existing policyholders who have*  
18               *paid policy premiums in return for flood insurance*  
19               *coverage;*

20               (2) *to increase incentives for homeowners and*  
21               *communities to participate in the national flood in-*  
22               *surance program and to improve oversight to ensure*  
23               *full participation in the program for owners of prop-*  
24               *erties for which such participation is mandatory;*

1           (3) to increase awareness of homeowners of flood  
 2           risks and improve the quality of information regard-  
 3           ing such risks provided to homeowners; and

4           (4) to better mitigate future flood damage risks  
 5           through a combination of enhanced protective meas-  
 6           ures, property elevation, and buyouts of flood-prone  
 7           properties.

8   **SEC. 3. STUDY REGARDING MANDATORY PURCHASE RE-**  
 9                           **QUIREMENT FOR 500-YEAR FLOODPLAIN AND**  
 10                          **REPORTS REGARDING FLOOD MAP MOD-**  
 11                          **ERNIZATION.**

12       (a) *STUDY REGARDING MANDATORY PURCHASE RE-*  
 13       *QUIREMENT FOR 500-YEAR FLOODPLAIN.—*

14           (1) *IN GENERAL.—The Comptroller General of*  
 15           *the United States shall conduct a study regarding the*  
 16           *impact, effectiveness, and feasibility of amending the*  
 17           *provisions of the Flood Disaster Protection Act of*  
 18           *1973 regarding the properties that are subject to the*  
 19           *mandatory flood insurance coverage purchase require-*  
 20           *ments under such Act to extend such requirements to*  
 21           *all properties located in the 500-year floodplain.*

22           (2) *ISSUES.—The study under this subsection*  
 23           *shall assess—*

24                   (A) *the regulatory, financial and economic*  
 25                   *impacts of extending such requirements on the*

1 *costs of homeownership, the actuarial soundness*  
2 *of the national flood insurance program, the*  
3 *Federal Emergency Management Agency, local*  
4 *communities, insurance companies, and local*  
5 *land use;*

6 *(B) the effectiveness of extending such re-*  
7 *quirements in protecting homeowners from fi-*  
8 *nancial loss and in protecting the financial*  
9 *soundness of the national flood insurance pro-*  
10 *gram, and the effectiveness of extending such re-*  
11 *quirements in comparison with providing for*  
12 *more effective enforcement of existing mandatory*  
13 *flood insurance purchase requirements;*

14 *(C) the feasibility of extending such require-*  
15 *ments taking into consideration the need for*  
16 *identifying and mapping the 500-year flood-*  
17 *plain;*

18 *(D) any liability on the part of lenders to*  
19 *comply with or enforce such extended require-*  
20 *ments;*

21 *(E) any burdens on building officials and*  
22 *flood plain managers to implement such require-*  
23 *ments in the expanded area;*

24 *(F) any increased burden on the Federal*  
25 *Emergency Management Agency to make deter-*

1        *minations on exemptions to the floodplain and*  
2        *approval of local decisions;*

3                *(G) the effects of extending such require-*  
4        *ments on existing policy holders of flood insur-*  
5        *ance coverage for properties located in the 100-*  
6        *year floodplain, including the effects on contin-*  
7        *ued compliance and premium rates; and*

8                *(H) the effects of extending such require-*  
9        *ments on the ability of homeowners to make ren-*  
10       *ovations to their homes.*

11                *(3) REPORT.—The Comptroller General shall*  
12       *submit a report to the Congress regarding the results*  
13       *and conclusions of the study under this subsection not*  
14       *later than the expiration of the 6-month period begin-*  
15       *ning on the date of the enactment of this Act.*

16       *(b) ANNUAL FLOOD MAP MODERNIZATION REPORTS*  
17       *AND CERTIFICATION OF COMPLETION.—*

18                *(1) IN GENERAL.—During the period that ends*  
19       *upon the completion by the Director of the Federal*  
20       *Emergency Management Agency of the updating and*  
21       *modernization of all floodplain areas and flood-risk*  
22       *zones, the Director shall submit a report annually to*  
23       *the Congress describing the extent to which such up-*  
24       *dating and modernization has been completed. Upon*  
25       *the completion of such updating, the Director shall*

1       submit to the Congress, and cause to be published in  
 2       the *Federal Register*, a report certifying such comple-  
 3       tion.

4           (2) *TIMING.*—The first report under this sub-  
 5       section shall be submitted not later than June 30,  
 6       2006, and successive reports required under this sub-  
 7       section during the period referred to in paragraph (1)  
 8       shall be submitted not later than June 30 of each year  
 9       during such period.

10   **SEC. 4. ENFORCEMENT.**

11       Paragraph (5) of section 102(f) of the *Flood Disaster*  
 12   *Protection Act of 1973* (42 U.S.C. 4012a) is amended—

13           (1) by striking “\$350” and inserting “\$2,000”;  
 14       and

15           (2) by striking the last sentence.

16   **SEC. 5. REITERATION OF FEMA RESPONSIBILITIES UNDER**  
 17       **2004 REFORM ACT.**

18       (a) *APPEALS PROCESS.*—As directed in section 205 of  
 19   the *Bunning-Bereuter-Blumenauer Flood Insurance Reform*  
 20   *Act of 2004* (42 U.S.C. 4011 note), the Director of the Fed-  
 21   eral Emergency Management Agency is again directed to,  
 22   not later than 90 days after the date of the enactment of  
 23   this Act, establish an appeals process through which holders  
 24   of a flood insurance policy may appeal the decisions, with

1 *respect to claims, proofs of loss, and loss estimates relating*  
2 *to such flood insurance policy as required by such section.*

3 (b) *MINIMUM TRAINING AND EDUCATION REQUIRE-*  
4 *MENTS.—The Director of the Federal Emergency Manage-*  
5 *ment Agency is directed to enforce the minimum training*  
6 *and education requirements for all insurance agents who*  
7 *sell flood insurance policies that have been established under*  
8 *the notice published September 1, 2005 (70 Fed. Reg.*  
9 *52117) pursuant to section 207 of the Bunning-Bereuter-*  
10 *Blumenauer Flood Insurance Reform Act of 2004 (42*  
11 *U.S.C. 4011 note).*

12 (c) *MITIGATION PROGRAMS.—Not later than the expi-*  
13 *ration of the 30-day period beginning on the date of the*  
14 *enactment of this Act, the Director of the Federal Emer-*  
15 *gency Management Agency shall issue regulations necessary*  
16 *to implement the amendments made by sections 102, 103,*  
17 *104, and 105 of the Bunning-Bereuter-Blumenauer Flood*  
18 *Insurance Reform Act of 2004 (118 Stat. 714 et seq.).*

19 (d) *REPORT.—Not later than the expiration of the 6-*  
20 *month period beginning on the date of the enactment of this*  
21 *Act, the Director of the Federal Emergency Management*  
22 *Agency shall submit a report to the Congress describing the*  
23 *implementation of each provision of the Bunning-Bereuter-*  
24 *Blumenauer Flood Insurance Reform Act of 2004 (Public*  
25 *Law 108–264) and identifying each regulation, order, no-*



1 *tice, and other material issued by the Director in imple-*  
 2 *menting each such provision.*

3 **SEC. 6. MAXIMUM COVERAGE LIMITS.**

4 *Subsection (b) of section 1306 of the National Flood*  
 5 *Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—*

6 *(1) in paragraph (2), by striking “\$250,000”*  
 7 *and inserting “\$335,500”;*

8 *(2) in paragraph (3), by striking “\$100,000”*  
 9 *and inserting “\$135,000”; and*

10 *(3) in paragraph (4), by striking “\$500,000”*  
 11 *each place such term appears and inserting*  
 12 *“\$670,700”.*

13 **SEC. 7. COVERAGE FOR ADDITIONAL LIVING EXPENSES**  
 14 **AND BUSINESS INTERRUPTION.**

15 *Subsection (b) of section 1306 of the National Flood*  
 16 *Insurance Act of 1968 (42 U.S.C. 4013) is amended—*

17 *(1) in paragraph (4), by striking “and” at the*  
 18 *end;*

19 *(2) in paragraph (5), by striking the period at*  
 20 *the end and inserting a semicolon; and*

21 *(3) by adding at the end the following new para-*  
 22 *graphs:*

23 *“(6) in the case of any residential property, each*  
 24 *renewal or new contract for flood insurance coverage*  
 25 *shall provide not less than \$1,000 aggregate liability*

1     *per dwelling unit for any necessary increases in liv-*  
2     *ing expenses incurred by the insured when losses from*  
3     *a flood make the residence unfit to live in, which cov-*  
4     *erage shall be available only at chargeable rates that*  
5     *are not less than the estimated premium rates for*  
6     *such coverage determined in accordance with section*  
7     *1307(a)(1);*

8             *“(7) in the case of any residential property, cov-*  
9     *erage for additional living expenses described in*  
10    *paragraph (6) shall be made available to every in-*  
11    *sured upon renewal and every applicant in excess of*  
12    *the limits provided in paragraph (6) in such amounts*  
13    *and at such rates as the Director shall establish, ex-*  
14    *cept that such chargeable rates shall not be less than*  
15    *the estimated premium rates for such coverage deter-*  
16    *mined in accordance with section 1307(a)(1); and*

17            *“(8) in the case of any commercial property, op-*  
18    *tional coverage for losses resulting from any partial*  
19    *or total interruption of the insured’s business caused*  
20    *by damage to, or loss of, such property from a flood*  
21    *shall be made available to every insured upon renewal*  
22    *and every applicant, except that—*

23            *“(A) for purposes of such coverage, losses*  
24            *shall be determined based on the profits the cov-*  
25            *ered business would have earned, based on pre-*

1           *vious financial records, had the flood not oc-*  
2           *curred; and*

3           *“(B) such coverage shall be made available*  
4           *only at chargeable rates that are not less than*  
5           *the estimated premium rates for such coverage*  
6           *determined in accordance with section*  
7           *1307(a)(1).”.*

8   **SEC. 8. INCREASE IN BORROWING AUTHORITY.**

9           *(a) BORROWING AUTHORITY.—The first sentence of*  
10          *subsection (a) of section 1309 of the National Flood Insur-*  
11          *ance Act of 1968 (42 U.S.C. 4016(a)), as amended by the*  
12          *National Flood Insurance Program Enhanced Borrowing*  
13          *Authority Act of 2005 (Public Law 109–65; 119 Stat.*  
14          *1998), is amended by striking “\$3,500,000,000” and insert-*  
15          *ing “\$22,000,000,000”.*

16          *(b) FEMA REPORT.—Not later than the expiration of*  
17          *the 6-month period beginning on the date of the enactment*  
18          *of this Act, the Director of the Federal Emergency Manage-*  
19          *ment Agency shall submit a report to the Congress setting*  
20          *forth a plan for repaying any amounts borrowed pursuant*  
21          *to increase in borrowing authority authorized under the*  
22          *amendments made by subsection (a).*

1 **SEC. 9. CLARIFICATION OF REPLACEMENT COST PROVI-**  
2 **SIONS, FORMS, AND POLICY LANGUAGE.**

3 *Not later than the expiration of the 3-month period*  
4 *beginning on the date of the enactment of this Act, the Di-*  
5 *rector of the Federal Emergency Management Agency*  
6 *shall—*

7 *(1) issue regulations, and revise any materials*  
8 *made available by such Agency, to clarify the appli-*  
9 *cability of replacement cost coverage under the na-*  
10 *tional flood insurance program;*

11 *(2) revise any regulations, forms, notices, guid-*  
12 *ance, and publications relating to the full cost of re-*  
13 *pair or replacement under the replacement cost cov-*  
14 *erage to more clearly describe such coverage to flood*  
15 *insurance policyholders and information to be pro-*  
16 *vided by such policyholders relating to such coverage,*  
17 *and to avoid providing misleading information to*  
18 *such policyholders; and*

19 *(3) revise the language in standard flood insur-*  
20 *ance policies under such program regarding rating*  
21 *and coverage descriptions in a manner that is con-*  
22 *sistent with language used widely in other home-*  
23 *owners and property and casualty insurance policies,*  
24 *including such language regarding classification of*  
25 *buildings, basements, crawl spaces, detached garages,*

3 *SEC. 10. FEMA REPORTS ON FINANCIAL STATUS OF INSUR-*  
4 *ANCE PROGRAM.*

5        *Section 1320 of the National Flood Insurance Act of*  
6        *1968 (42 U.S.C. 4027) is amended—*

7 (1) in the section heading, by striking “RE-  
8 PORT TO THE PRESIDENT” and inserting “RE-  
9 PORTS”;

10 (2) in subsection (a), by striking “IN GENERAL”  
11 and inserting “BIENNIAL REPORT TO PRESIDENT” ;  
12 and

(3) by adding at the end the following new sub-  
section:

15           “(c) *SEMIANNUAL REPORTS TO CONGRESS ON FINAN-*  
16 *CIAL STATUS.*—Not later than June 30 and December 31  
17 *of each year, the Director shall submit a report to the Con-*  
18 *gress regarding the financial status of the national flood*  
19 *insurance program under this title. Each such report shall*  
20 *describe the financial status of the National Flood Insur-*  
21 *ance Fund and current and projected levels of claims, pre-*  
22 *mium receipts, expenses, and borrowing under the pro-*  
23 *gram.*”.

1 **SEC. 11. NOTICE OF AVAILABILITY OF FLOOD INSURANCE**  
2 **IN RESPA GOOD FAITH ESTIMATE.**

3 *Subsection (c) of section 5 of the Real Estate Settle-*  
4 *ment Procedures Act of 1974 (12 U.S.C. 2604(c)) is amend-*  
5 *ed by adding at the end the following new sentence: “Each*  
6 *such good faith estimate shall include a conspicuous state-*  
7 *ment that flood insurance coverage for residential real es-*  
8 *tate is generally available under the National Flood Insur-*  
9 *ance Program whether or not the real estate is located in*  
10 *an area having special flood hazards and that, to obtain*  
11 *such coverage, a home owner or purchaser should contact*  
12 *a hazard insurance provider.”.*

13 **SEC. 12. ELIGIBILITY OF PROPERTY DEMOLITION AND RE-**  
14 **BUILDING FOR MITIGATION ASSISTANCE**  
15 **PROGRAM.**

16 *Subparagraph (B) of section 1366(e)(5) of the Na-*  
17 *tional Flood Insurance Act of 1968 (42 U.S.C.*  
18 *4104c(e)(5)(B)) is amended by inserting before the semi-*  
19 *colon at the end the following: “, or the demolition and re-*  
20 *building of structures located in such areas to at least Base*  
21 *Flood Elevation or any higher elevation required by any*  
22 *local ordinance”.*

23 **SEC. 13. AUTHORIZATION OF ADDITIONAL FEMA STAFF.**

24 *Notwithstanding any other provision of law, the Direc-*  
25 *tor of the Federal Emergency Management Agency may em-*  
26 *ploy such additional staff of such Agency as may be nec-*

1 *essary to carry out all of the responsibilities of the Director*  
2 *pursuant to this Act and the amendments made by this Act.*  
3 *There are authorized to be appropriated to Director such*  
4 *sums as may be necessary for costs of employing such addi-*  
5 *tional staff.*

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