

109TH CONGRESS  
1ST SESSION

# S. 1936

To strengthen the national flood insurance program, encourage participation in the program, and provide owners of properties not located in flood hazard zones a one-time opportunity to purchase flood insurance coverage for a period covering such hurricane.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 2005

Mr. LOTT introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To strengthen the national flood insurance program, encourage participation in the program, and provide owners of properties not located in flood hazard zones a one-time opportunity to purchase flood insurance coverage for a period covering such hurricane.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hurricanes Katrina  
5 and Rita Flood Insurance Buy-In Act of 2005”.

1 **SEC. 2. TEMPORARY FLOOD INSURANCE BUY-IN PROGRAM.**

2 (a) IN GENERAL.—The Director of the Federal  
3 Emergency Management Agency shall make available  
4 flood insurance coverage under the national flood insur-  
5 ance program for eligible structures, in accordance with  
6 this section.

7 (b) SCOPE OF COVERAGE.—

8 (1) ELIGIBLE LOSSES.—Coverage may be made  
9 available under this section only for damage or loss  
10 to an eligible structure, but not including any con-  
11 tents thereof, from flooding resulting from Hurri-  
12 cane Katrina or Hurricane Rita of 2005.

13 (2) AMOUNT.—The amount of coverage made  
14 available under this section for an eligible structure  
15 may not exceed the lesser of—

16 (A) the maximum amount of coverage that  
17 may be made available for such structure under  
18 the national flood insurance program; and

19 (B) the amount of coverage provided for  
20 the structure, as of August 29, 2005, under the  
21 policy for losses caused by wind or windstorm  
22 (as referred to in subsection (c)(4)).

23 (c) ELIGIBLE STRUCTURES.—For purposes of this  
24 section, an eligible structure is a structure that—

25 (1) sustained damage from flooding resulting  
26 from Hurricane Katrina or Hurricane Rita of 2005;

1           (2) is of a type (including residential properties,  
2           business properties, and others) for which coverage  
3           was generally made available under the national  
4           flood insurance program as of August 29, 2005;

5           (3) is located in a covered disaster area;

6           (4) was covered—

7                 (A) in the case of a structure damaged by  
8                 flooding resulting from Hurricane Katrina, as  
9                 of August 29, 2005, by an insurance policy for  
10                losses caused by wind or windstorm; and

11               (B) in the case of a structure damaged by  
12                flooding resulting from Hurricane Rita, as of  
13                September 23, 2005, by such a policy;

14           (5) is not located in an area that has been iden-  
15           tified by the Director as an area having special flood  
16           hazards (as such term is used for purposes of sec-  
17           tion 102 of the Flood Disaster Protection Act of  
18           1973 (42 U.S.C. 4012a)); and

19           (6) was not covered by flood insurance made  
20           available under the national flood insurance program  
21           at the time of such damage.

22           (d) PREMIUMS.—

23               (1) AMOUNT.—The Director shall charge, for  
24                coverage made available under this section for an eli-  
25                gible structure, premiums in the amount equal to

1 105 percent of the aggregate amount of premiums  
2 that would have been charged, at the time, for cov-  
3 erage for the structure under the national flood in-  
4 surance program (for the type and amount of cov-  
5 erage provided) for the 10-year period that ends  
6 upon the date of purchase of such coverage.

7 (2) DEDUCTION FROM CLAIMS.—The Director  
8 shall provide that a purchaser of coverage made  
9 available under this section may pay premiums  
10 charged for such coverage under paragraph (1) by  
11 deducting such amounts from the amount of any  
12 claims payable under such coverage.

13 (3) CREDITS TO NFIF.—There shall be credited  
14 to the National Flood Insurance Fund established  
15 under section 1310 of the National Flood Insurance  
16 Act of 1968 (42 U.S.C. 4017) the following  
17 amounts:

18 (A) Any premiums collected pursuant to  
19 this section.

20 (B) From amounts appropriated under  
21 subsection (i)(1), an amount equal to the  
22 amount of any premiums charged for coverage  
23 made available under this subsection that are  
24 not collected by the Director as a result of the  
25 operation of paragraph (2).

1 (e) CLAIMS.—

2 (1) IN GENERAL.—Claims for damage or loss  
3 pursuant to coverage made available under this sec-  
4 tion may be paid only from amounts made available  
5 in appropriation Acts under subsection (i).

6 (2) EXCLUSION.—Amounts in the National  
7 Flood Insurance Fund established under section  
8 1310 of the National Flood Insurance Act of 1968  
9 (42 U.S.C. 4017), including any amount credited to  
10 such Fund under subsection (d)(3), shall not be  
11 available for paying claims under coverage made  
12 available under this section.

13 (f) REQUIREMENTS TO OBTAIN FUTURE COVERAGE  
14 AND TAKE MITIGATION ACTIONS.—The Director may not  
15 make coverage available under this section for an eligible  
16 structure unless the owner of the structure enters into a  
17 binding agreement, contained in such deed restrictions as  
18 the Director considers appropriate, to ensure that such  
19 owner, and any future owners, will—

20 (1) at all times after purchasing coverage under  
21 this section for the structure, in perpetuity, maintain  
22 coverage under the national flood insurance pro-  
23 gram, for any structures located at any time on the  
24 same property on which, at the time of purchase,

1 such eligible structure is located, in an amount at  
2 least equal to the lesser of—

3 (A) the value of the structure, as deter-  
4 mined by the Director; or

5 (B) the maximum limit of coverage made  
6 available with respect to the particular type of  
7 property under the national flood insurance  
8 program; and

9 (2) accept any offer to take mitigation actions  
10 or activities made, with respect to the structure,  
11 under a mitigation program under section 1323,  
12 1361A, or 1366 of the National Flood Insurance Act  
13 of 1968 (42 U.S.C. 4030, 4102a, 4104c).

14 (g) PREMIUM RATES FOR FUTURE COVERAGE.—In  
15 establishing rates for flood insurance coverage, other than  
16 coverage under this section, made available under the na-  
17 tional flood insurance program, the Director shall not con-  
18 sider, in any manner—

19 (1) any premiums charged or collected under  
20 subsection (d);

21 (2) any claims paid pursuant to coverage made  
22 available under this section; or

23 (3) any amounts appropriated under subsection  
24 (i).

1 (h) DEFINITIONS.—For purposes of this section, the  
2 following definitions shall apply:

3 (1) COVERED DISASTER AREA.—The term “cov-  
4 ered disaster area” means an area—

5 (A) for which a major disaster was de-  
6 clared by the President pursuant to title IV of  
7 the Robert T. Stafford Disaster Relief and  
8 Emergency Assistance Act (42 U.S.C. 5121 et  
9 seq.) as a result of Hurricane Katrina or Hurri-  
10 cane Rita of 2005; and

11 (B) in which the sale of flood insurance  
12 coverage was available under the National  
13 Flood Insurance Act of 1968 (42 U.S.C. 4001  
14 et seq.) as of August 25, 2005.

15 (2) DIRECTOR.—The term “Director” means  
16 the Director of the Federal Emergency Management  
17 Agency.

18 (i) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) FOR CLAIMS PAYMENTS.—There are au-  
20 thorized to be appropriated to the Director, such  
21 sums as may be necessary to cover all costs of flood  
22 insurance coverage made available under this sec-  
23 tion, including administrative expenses and claims  
24 under such coverage.

1           (2) FOR MITIGATION ASSISTANCE.—There are  
2           authorized to be appropriated such sums as may be  
3           necessary, for the National Flood Insurance Fund  
4           established under section 1310 of the National  
5           Flood Insurance Act of 1968 (42 U.S.C. 4017) and  
6           for the National Flood Mitigation Fund established  
7           under section 1367 of such Act (42 U.S.C. 4104d),  
8           for use only for mitigation activities under the pro-  
9           grams under sections 1323, 1361A, and 1366 of the  
10          National Flood Insurance Act of 1968 (42 U.S.C.  
11          4030, 4102a, 4104e), as appropriate, for eligible  
12          structures.

13          (j) PUBLIC NOTICE.—Not later than 30 days after  
14          the date of enactment of this Act, the Director shall issue  
15          and widely disseminate in the covered disaster area public  
16          notice of the procedures to be followed for application for  
17          flood insurance authorized by this Act.

18          (k) TERMINATION.—The Director may not enter into  
19          any contract or policy for coverage under this section ex-  
20          cept pursuant to an application for such coverage sub-  
21          mitted to the Director before the expiration of the 90-day  
22          period beginning on the date that the public notice de-  
23          scribed in subsection (j) is issued.

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