

4014(a)(1)(B)(iii) shall be collected only if provided in advance in appropriations acts.”

STUDY OF ECONOMIC EFFECTS OF CHARGING ACTUARIALY BASED PREMIUM RATES FOR PRE-FIRM STRUCTURES

Pub. L. 103-325, title V, §578, Sept. 23, 1994, 108 Stat. 2284, required the Director of the Federal Emergency Management Agency to conduct a study of the economic effects that would result from increasing premium rates for flood insurance coverage for pre-FIRM structures and submit a report to Congress no later than 12 months after Sept. 23, 1994.

SEA LEVEL RISE STUDY

Pub. L. 101-137, §5, Nov. 3, 1989, 103 Stat. 825, directed Director of Federal Emergency Management Agency to conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps, such study also to project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region, with Director to report results of study to Congress not later than one year after Nov. 3, 1989.

§ 4015. Chargeable premium rates

(a) Establishment; terms and conditions

On the basis of estimates made under section 4014 of this title, 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 4012 of this title (at less than the estimated risk premium rates under section 4014(a)(1) of this title, where necessary), and

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

(b) Considerations for rates

Such rates shall, insofar as practicable, be—

(1) based on a consideration of the respective risks involved, including differences in risks due to land use measures, flood-proofing, flood forecasting, and similar measures;

(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 chapter;

(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 4014(a) of this title, to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title);

(4) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates under section 4014(a)(1) of this title and the estimated rates under section 4014(a)(2) of this title; 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 4014(a)(1) of this title 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 4101 of this title 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) Payment of certain sums to Administrator; deposits in Fund

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 4014(a) of this title 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 4017 of this title.

(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 chapter—

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

(A) as provided in paragraph (4);

(B) in the case of property identified under section 4014(g) of this title; 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 4022(b) of this title;

(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 chapter for any properties initially rated under section 4014(a)(2) of this title 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 4014(a)(1) of this title, 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 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 chapter 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 chapter for any properties described in subparagraphs (A) through (E) of section 4014(a)(2) of this title 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).

(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 chapter 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

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 4012a of this title with the option of paying their premiums annually or monthly.

(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

Notwithstanding subsection (f), the premium rate for flood insurance under this chapter that is purchased on or after March 21, 2014—

- (1) 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) where such flood insurance premium rate is calculated under subsection (a)(1) of section 4014 of this title,

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 4014 of this title.

(j) Premiums and reports

In setting premium risk rates, in addition to striving to achieve the objectives of this chapter 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 4102(d) of this title.

(l) 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.

(m) Protection of small businesses, non-profits, houses of worship, and residences

(1) Report

Not later than 18 months after March 21, 2014,¹ 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 4014(a)(2) of this title and the surcharges required under section 4015a of this title 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 af-

¹ See References in Text note below.

fordability to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(Pub. L. 90-448, title XIII, §1308, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93-234, title I, §103, Dec. 31, 1973, 87 Stat. 978; Pub. L. 98-181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101-508, title II, §2302(e)(2), Nov. 5, 1990, 104 Stat. 1388-24; Pub. L. 103-325, title V, §572(a), Sept. 23, 1994, 108 Stat. 2277; Pub. L. 108-264, title I, §106, title II, §209, June 30, 2004, 118 Stat. 724, 727; Pub. L. 112-123, §2(b), May 31, 2012, 126 Stat. 365; Pub. L. 112-141, div. F, title II, §§100205(c), (d), 100207, 100211, 100238(b)(1), July 6, 2012, 126 Stat. 918, 919, 921, 958; Pub. L. 113-89, §§4(a), 5-7, 11(a), 26(b), 28, 29, Mar. 21, 2014, 128 Stat. 1022, 1023, 1025, 1033.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2), (e), (i), and (j), 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 classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

This chapter, referred to in subsec. (f), was in the original “this Act”, and was translated as reading “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, to reflect the probable intent of Congress. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Flood Disaster Protection Act of 1973, referred to in subsec. (h), is Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

The Biggert-Waters Flood Insurance Reform Act of 2012, referred to in subsec. (h), is subtitle A (§§100201-100249) of title II of div. F of Pub. L. 112-141, July 6, 2012, 126 Stat. 916. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 4001 of this title and Tables.

March 21, 2014, referred to in subsec. (m)(1), was in the original “the date of the enactment of this section”, and was translated as reading “the date of the enactment of this subsection”, meaning the date of enactment of Pub. L. 113-89, which enacted subsec. (m), to reflect the probable intent of Congress.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113-89, §5(1), struck out “, the chargeable risk premium rates for flood insurance under this chapter for any properties” before dash at end of introductory provisions.

Subsec. (e)(1), (2). Pub. L. 113-89, §5(5), added pars. (1) and (2). Former pars. (1) and (2) redesignated (3) and (4), respectively.

Pub. L. 113-89, §5(2), (3), inserted “the chargeable risk premium rates for flood insurance under this chapter for any properties” at beginning.

Subsec. (e)(3). Pub. L. 113-89, §5(4), (6), redesignated par. (1) as (3) and substituted “15 percent” for “20 percent”.

Subsec. (e)(4). Pub. L. 113-89, §5(4), (7), redesignated par. (2) as (4) and substituted “paragraph (3)” for “paragraph (1)”.

Subsec. (g). Pub. L. 113-89, §11(a), substituted “annually or monthly” for “either annually or in more frequent installments”.

Subsec. (h). Pub. L. 113-89, §4(a), redesignated subsec. (i) as (h) and struck out former subsec. (h) which related to premium adjustment to reflect current risk of flood.

Subsec. (i). Pub. L. 113-89, §6, added subsec. (i). Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 113-89, §7, added subsec. (j).

Subsec. (k). Pub. L. 113-89, §26(b), added subsec. (k).

Subsec. (l). Pub. L. 113-89, §28, added subsec. (l).

Subsec. (m). Pub. L. 113-89, §29, added subsec. (m).

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

Pub. L. 112-141, §100211(1), in introductory provisions, substituted “prescribe, after providing notice” for “, 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, prescribe by regulation”.

Subsec. (b)(5). Pub. L. 112-141, §100211(2), added par. (5).

Subsecs. (c), (d). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director” wherever appearing.

Subsec. (e). Pub. L. 112-141, §100205(c)(1), struck out “or (3)” after “paragraph (2)” and inserted “any properties” after “under this chapter for” in introductory provisions.

Pub. L. 112-123 substituted “under this chapter for—” for “under this chapter for”, inserted par. (1) designation before “any properties”, and added par. (2).

Subsec. (e)(1). Pub. L. 112-141, §100205(c)(2), substituted “within any single” for “any properties within any single” and “20 percent” for “10 percent”.

Subsec. (e)(2). Pub. L. 112-141, §100205(c)(3), added par. (2) and struck out former par. (2) which read as follows: “any residential properties which are not the primary residence of an individual, as described in section 4014(a)(2) of this title, 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 (1).”

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

Subsec. (g). Pub. L. 112-141, §100205(d), added subsec. (g).

Subsec. (h). Pub. L. 112-141, §100207, added subsec. (h).

Subsec. (i). Pub. L. 112-141, §100211(3), added subsec. (i).

2004—Subsec. (c). Pub. L. 108-264, §106(a), added subsec. (c) and struck out former subsec. (c) which read as follows “Subject only to the limitation under subsection (e) of this section, the chargeable rate with respect to any property, the construction or substantial improvements of which the Director determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Director under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title.”

Subsec. (e). Pub. L. 108-264, §106(b), substituted “Except with respect to properties described under paragraph (2) or (3) of subsection (c), and notwithstanding” for “Notwithstanding”.

Subsec. (f). Pub. L. 108-264, §209, added subsec. (f).

1994—Subsec. (c). Pub. L. 103-325, §572(a)(1), substituted “Subject only to the limitation under subsection (e) of this section” for “Notwithstanding any other provision of this chapter”.

Subsec. (e). Pub. L. 103-325, §572(a)(2), added subsec. (e).

1990—Subsec. (b)(3), (4). Pub. L. 101-508, §2302(e)(2)(A), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 101-508, §2302(e)(2)(B), added subsec. (d) and struck out former subsec. (d) which read as follows: “In the event any chargeable premium rate prescribed under this section—

“(1) is a rate which is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title, and

“(2) includes any amount for administrative expenses of carrying out the flood insurance program which have been estimated under clause (ii) of section 4014(a)(1)(B) of this title, a sum equal to such amount shall be paid to the Director, and he shall deposit such sum in the National Flood Insurance Fund established under section 4017 of this title.”

1983—Subsecs. (a), (c), (d), Pub. L. 98-181 substituted “Director” for “Secretary” wherever appearing.

1973—Subsec. (c). Pub. L. 93-234 substituted “started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later” for “started after the identification of the area in which such property is located has been published under paragraph (1) of section 4101 of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-89, §4(b), Mar. 21, 2014, 128 Stat. 1022, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as if enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012 [(sub)title A of title II of div. F of] Public Law 112-141; 126 Stat. 957 [sic].”

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-123, §2(c), May 31, 2012, 126 Stat. 365, provided that: “The first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual under section 1308(e)(2) of the National Flood Insurance Act of 1968 [former 42 U.S.C. 4015(e)(2)], as added by this Act, shall take effect on July 1, 2012, and the chargeable risk premium rates for such properties shall be increased by 25 percent each year thereafter, as provided in such section 1308(e)(2).”

CONSTRUCTION OF AMENDMENT BY PUB. L. 112-141

Pub. L. 112-141, div. F, title II, §100205(e), July 6, 2012, 126 Stat. 919, provided that: “Nothing in this section [amending this section and section 4014 of this title and enacting provisions set out as a note under section 4014 of this title] or the amendments made by this section may be construed to affect the requirement under section 2(c) of the Act entitled ‘An Act to extend the National Flood Insurance Program, and for other purposes’, approved May 31, 2012 (Public Law 112-123) [set out above], that the first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual take effect on July 1, 2012.”

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.

IMPLEMENTATION

Pub. L. 113-89, §11(b), Mar. 21, 2014, 128 Stat. 1025, provided that: “The Administrator [of the Federal Emergency Management Agency] shall implement the requirement under section 1308(g) of the National Flood Insurance Act of 1968 [42 U.S.C. 4015(g)], as amended by subsection (a), not later than the expiration of the 18-month period beginning on the date of the enactment of this Act [Mar. 21, 2014].”

LIMITATION ON PREMIUMS

Pub. L. 101-508, title II, §2302(e)(5), Nov. 5, 1990, 104 Stat. 1388-25, provided that, notwithstanding section 541(d) of Pub. L. 100-242, formerly set out below, premium rates charged for flood insurance under any program established pursuant to this chapter could be increased by more than 10 percent during fiscal year 1991, with certain exceptions.

Pub. L. 100-242, title V, §541(d), Feb. 5, 1988, 101 Stat. 1939, as amended by Pub. L. 101-137, §1(d), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101-508, title II, §2302(c), Nov. 5, 1990, 104 Stat. 1388-23, limited increases in premium rates charged for flood insurance under programs established pursuant to this chapter during period beginning Feb. 5, 1988, and ending Sept. 30, 1995, to prorated annual rate of 10 percent, prior to repeal by Pub. L. 103-325, title V, §572(b), Sept. 23, 1994, 108 Stat. 2278.

Pub. L. 98-181, title I [title IV, §451(g)(1)], Nov. 30, 1983, 97 Stat. 1229, provided that premium rates charged for flood insurance under any program established pursuant to this chapter could not be increased during the period beginning Nov. 30, 1983, and ending Sept. 30, 1984.

§ 4015a. 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 March 21, 2014. Such surcharge shall be in addition to the surcharge under section 4011(b) of this title 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.

(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 chapter for each property covered by flood insurance under this chapter, other than properties for which premiums are calculated under subsection (e) or (f) of section 4014 of this title or section 4056 of this title 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 4014(a)(1) of this title for such property.