

“(4) FAILURE TO COMPLY.—A property and casualty insurance company participating in the Write Your Own program which fails to comply with the reporting requirement under this subsection or the requirement under section 62.23(j)(1) of title 44, Code of Federal Regulations (relating to biennial audit of the flood insurance financial statements) shall be subject to a civil penalty in an amount of not more than \$1,000 per day for each day that the company remains in noncompliance with either such requirement.

“(b) METHODOLOGY TO DETERMINE REIMBURSED EXPENSES.—Not later than 180 days after the date of enactment of this Act [July 6, 2012], the Administrator shall develop a methodology for determining the appropriate amounts that property and casualty insurance companies participating in the Write Your Own program should be reimbursed for selling, writing, and servicing flood insurance policies and adjusting flood insurance claims on behalf of the National Flood Insurance Program. The methodology shall be developed using actual expense data for the flood insurance line and can be derived from—

- “(1) flood insurance expense data produced by the property and casualty insurance companies;
- “(2) flood insurance expense data collected by the National Association of Insurance Commissioners; or
- “(3) a combination of the methodologies described in paragraphs (1) and (2).

“(c) SUBMISSION OF EXPENSE REPORTS.—To develop the methodology established under subsection (b), the Administrator may require each property and casualty insurance company participating in the Write Your Own program to submit a report to the Administrator, in a format determined by the Administrator and within 60 days of the request, that details the expense levels of each such company for selling, writing, and servicing standard flood insurance policies and adjusting and servicing claims.

“(d) FEMA RULEMAKING ON REIMBURSEMENT OF EXPENSES UNDER THE WRITE YOUR OWN PROGRAM.—Not later than 12 months after the date of enactment of this Act [July 6, 2012], the Administrator shall issue a rule to formulate revised expense reimbursements to property and casualty insurance companies participating in the Write Your Own program for their expenses (including their operating and administrative expenses for adjustment of claims) in selling, writing, and servicing standard flood insurance policies, including how such companies shall be reimbursed in both catastrophic and noncatastrophic years. Such reimbursements shall be structured to ensure reimbursements track the actual expenses, including standard business costs and operating expenses, of such companies as closely as practically possible.

“(e) REPORT OF THE ADMINISTRATOR.—Not later than 60 days after the effective date of the final rule issued pursuant to subsection (d), the Administrator shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—

- “(1) the specific rationale and purposes of such rule;
- “(2) the reasons for the adoption of the policies contained in such rule; and
- “(3) the degree to which such rule accurately represents the true operating costs and expenses of property and casualty insurance companies participating in the Write Your Own program.

“(f) GAO STUDY AND REPORT ON EXPENSES OF WRITE YOUR OWN PROGRAM.—

“(1) STUDY.—Not later than 180 days after the effective date of the final rule issued pursuant to subsection (d), the Comptroller General of the United States shall—

- “(A) conduct a study on the efficacy, adequacy, and sufficiency of the final rules issued pursuant to subsection (d); and
- “(B) report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Rep-

resentatives on the findings of the study conducted under subparagraph (A).

“(2) GAO AUTHORITY.—In conducting the study and report required under paragraph (1), the Comptroller General—

“(A) may use any previous findings, studies, or reports that the Comptroller General previously completed on the Write Your Own program;

“(B) shall determine if—

“(i) the final rule issued pursuant to subsection (d) allows the Federal Emergency Management Agency to access adequate information regarding the actual expenses of property and casualty insurance companies participating in the Write Your Own program; and

“(ii) the actual reimbursements paid out under the final rule issued pursuant to subsection (d) accurately reflect the expenses reported by property and casualty insurance companies participating in the Write Your Own program, including the standard business costs and operating expenses of such companies; and

“(C) shall analyze the effect of the final rule issued pursuant to subsection (d) on the level of participation of property and casualty insurers in the Write Your Own program.”

[For definitions of terms used in section 100224 of Pub. L. 112–141, set out above, see section 4004 of this title.]

§ 4082. Use of insurance pool, companies, or other private organizations for certain payments

(a) Authorization to enter into contracts for certain responsibilities

In order to provide for maximum efficiency in the administration of the flood insurance program and in order to facilitate the expeditious payment of any Federal funds under such program, the Administrator may enter into contracts with pool formed or otherwise created under section 4051 of this title, or any insurance company or other private organizations, for the purpose of securing reinsurance of insurance coverage provided by the program or for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

- (1) Estimating and later determining any amounts of payments to be made.
- (2) Receiving from the Administrator, disbursing, and accounting for funds in making such payments.
- (3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.
- (4) Placing reinsurance coverage on insurance provided by such program.
- (5) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

(b) Terms and conditions of contract

Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Administrator finds necessary or appropriate for carrying out responsibilities under subsection (a), and may provide for payment of any costs which the Administrator determines are incidental to carrying out such responsibilities which are covered by the contract.

(c) Competitive bidding

Any contract entered into under subsection (a) may be entered into without regard to section 6101 of title 41 or any other provision of law requiring competitive bidding.

(d) Findings of Administrator

No contract may be entered into under this section unless the Administrator finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(e) Bond; liability of certifying officers and disbursing officers

(1) Any such contract may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Administrator may deem appropriate.

(2) No individual designated pursuant to a contract under this section to certify payments shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this section.

(3) No officer disbursing funds shall in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by an individual designated to certify payments as provided in paragraph (2) of this subsection.

(f) Term of contract; renewals; termination

Any contract entered into under this section shall be for a term of one year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Administrator may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if he finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the flood insurance program authorized under this chapter.

(Pub. L. 90-448, title XIII, §1346, Aug. 1, 1968, 82 Stat. 585; 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, §§100232(d)(4), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

Editorial Notes**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a)(5) and (f), 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.

CODIFICATION

In subsec. (c), “section 6101 of title 41” substituted for “section 3709 of the Revised Statute (41 U.S.C. 5)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

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

Pub. L. 112-141, §100232(d)(4)(A), inserted “securing reinsurance of insurance coverage provided by the program or for the purpose of” after “for the purpose of” in introductory provisions.

Subsec. (a)(1). Pub. L. 112-141, §100232(d)(4)(B), substituted “Estimating” for “estimating” and period for semicolon at end.

Subsec. (a)(2). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director”.

Pub. L. 112-141, §100232(d)(4)(C), substituted “Receiving” for “receiving” and period for semicolon at end.

Subsec. (a)(3). Pub. L. 112-141, §100232(d)(4)(D)(ii), which directed substitution of period for “; and” was executed by making the substitution for “; and” to reflect the probable intent of Congress.

Pub. L. 112-141, §100232(d)(4)(D)(i), substituted “Making” for “making”.

Subsec. (a)(4). Pub. L. 112-141, §100232(d)(4)(G), added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 112-141, §100232(d)(4)(E), (F), redesignated par. (4) as (5) and substituted “Otherwise” for “otherwise”.

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

1983—Subsecs. (a), (b), (d), (e)(1), (f). Pub. L. 98-181 substituted “Director” for “Secretary” wherever appearing.

Statutory Notes and Related Subsidiaries**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.

§ 4083. Settlement of claims; arbitration

(a) The Administrator is authorized to make final settlement of any claims or demands which may arise as a result of any financial transactions which he is authorized to carry out under this subchapter, and may, to assist him in making any such settlement, refer any disputes relating to such claims or demands to arbitration, with the consent of the parties concerned.

(b) Such arbitration shall be advisory in nature, and any award, decision, or recommenda-