

for purposes of this section and which related to encouraging and improving participation in the national flood insurance program, respectively.

2004—Subsec. (b)(2). Pub. L. 108-264, §103(f), substituted “7.5 percent of the available funds under this section” for “\$1,500,000”.

Subsec. (e)(3). Pub. L. 108-264, §103(a), inserted at end “The Director may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund.”

Subsec. (e)(4). Pub. L. 108-264, §103(b), added par. (4) and struck out heading and text of former par. (4). Text read as follows: “The Director shall make every effort to provide mitigation assistance under this section for mitigation plans proposing activities for repetitive loss structures and structures that have incurred substantial damage.”

Subsec. (g)(2), (3). Pub. L. 108-264, §103(e), added par. (2) and redesignated former par. (2) as (3).

Subsec. (m). Pub. L. 108-264, §103(c), added subsec. (m).

### Statutory Notes and Related Subsidiaries

#### REGULATIONS

Pub. L. 103-325, title V, §553(b), Sept. 23, 1994, 108 Stat. 2273, required the Director of the Federal Emergency Management Agency to issue regulations no later than 6 months after Sept. 23, 1994, to carry out this section.

#### 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.

### § 4104d. National Flood Mitigation Fund

#### (a) Establishment and availability

The Administrator shall establish in the Treasury of the United States a fund to be known as the National Flood Mitigation Fund, which shall be credited with amounts described in subsection (b) and shall be available, to the extent provided in appropriation Acts, for providing assistance under section 4104c of this title.

#### (b) Credits

The National Flood Mitigation Fund shall be credited with—

(1) in each fiscal year, amounts from the National Flood Insurance Fund not to exceed \$90,000,000 and to remain available until expended, of which—

(A) not more than \$40,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 4104c(a)(1) of this title;

(B) not more than \$40,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 4104c(a)(2) of this title; and

(C) not more than \$10,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 4104c(a)(3) of this title;

(2) any penalties collected under section 4012a(f) of this title; and

(3) any amounts recaptured under section 4104c(e) of this title.

#### (c) Administrative expenses

The Administrator may use not more than 5 percent of amounts made available under subsection (b) to cover salaries, expenses, and other administrative costs incurred by the Administrator to make grants and provide assistance under section 4104c of this title.

#### (d) Prohibition on offsetting collections

Notwithstanding any other provision of this chapter, amounts made available pursuant to this section shall not be subject to offsetting collections through premium rates for flood insurance coverage under this chapter.

#### (e) Continued availability and reallocation

Any amounts made available pursuant to subparagraph (A), (B), or (C) of subsection (b)(1) that are not used in any fiscal year shall continue to be available for the purposes specified in the subparagraph of subsection (b)(1) pursuant to which such amounts were made available, unless the Administrator determines that reallocation of such unused amounts to meet demonstrated need for other mitigation activities under section 4104c of this title is in the best interest of the National Flood Insurance Fund.

#### (f) Investment

If the Administrator determines that the amounts in the National Flood Mitigation Fund are in excess of amounts needed under subsection (a), the Administrator may invest any excess amounts the Administrator determines advisable in interest-bearing obligations issued or guaranteed by the United States.

#### (g) Report

The Administrator shall submit a report to the Congress not later than the expiration of the 1-year period beginning on September 23, 1994, and not less than once during each successive 2-year period thereafter. The report shall describe the status of the Fund and any activities carried out with amounts from the Fund.

(Pub. L. 90-448, title XIII, §1367, as added Pub. L. 103-325, title V, §554(a), Sept. 23, 1994, 108 Stat. 2273; amended Pub. L. 108-264, title I, §103(d), June 30, 2004, 118 Stat. 721; Pub. L. 112-141, div. F, title II, §§100225(e), 100238(b)(1), July 6, 2012, 126 Stat. 941, 958.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (d), 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

September 23, 1994, referred to in subsec. (g), was in the original “the date of enactment of this Act”, which

was translated as meaning the date of enactment of Pub. L. 103-325, which enacted this section, to reflect the probable intent of Congress.

#### AMENDMENTS

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

Subsec. (b)(1). Pub. L. 112-141, §100225(e)(1)(A), added par. (1) and struck out former par. (1) which read as follows: “in each fiscal year, amounts from the National Flood Insurance Fund not exceeding \$40,000,000, to remain available until expended;”.

Subsec. (b)(3). Pub. L. 112-141, §100225(e)(1)(B), substituted “section 4104c(e)” for “section 4104c(i)”.

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

Pub. L. 112-141, §100225(e)(2), substituted “section 4104c” for “sections 4104c and 4030”.

Subsecs. (d), (e). Pub. L. 112-141, §100225(e)(4), added subsecs. (d) and (e). Former subsecs. (d) and (e) redesignated (f) and (g), respectively.

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

Pub. L. 112-141, §100225(e)(3), redesignated subsecs. (d) and (e) as (f) and (g), respectively.

2004—Subsec. (b)(1). Pub. L. 108-264, §103(d)(1), added par. (1) and struck out former par. (1) which read as follows: “amounts from the National Flood Insurance Fund, in amounts not exceeding—

“(A) \$10,000,000 in the fiscal year ending September 30, 1994;

“(B) \$15,000,000 in the fiscal year ending September 30, 1995;

“(C) \$20,000,000 in the fiscal year ending September 30, 1996; and

“(D) \$20,000,000 in each fiscal year thereafter;”.

Subsecs. (c) to (e). Pub. L. 108-264, §103(d)(2), (3), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

#### Statutory Notes and Related Subsidiaries

##### TRANSFER OF FUNCTIONS

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#### § 4105. Disaster mitigation requirements; notification to flood-prone areas

##### (a) Initial notification

Not later than six months following December 31, 1973, the Administrator shall publish information in accordance with section 4101(1) of this title, and shall notify the chief executive officer of each known flood-prone community not already participating in the national flood insurance program of its tentative identification as a community containing one or more areas having special flood hazards.

##### (b) Alternative actions of tentatively identified communities; public hearing; opportunity for submission of evidence; finality of administrative determination of existence or extent of flood hazard area

After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Administrator that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by flood-works or other flood control methods. The Administrator may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the Administrator decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Administrator's final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

##### (c) Subsequent notification to additional communities known to be flood prone areas

As information becomes available to the Administrator concerning the existence of flood hazards in communities not known to be flood prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

##### (d) Provisions of section 4106 applicable to flood-prone communities disqualified for flood insurance program

Formally identified flood-prone communities that do not qualify for the national flood insurance program within one year after such notification or by the date specified in section 4106 of this title, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program.

##### (e) Administrative procedures; establishment; reimbursement of certain expenses; appropriation authorization

The Administrator is authorized to establish administrative procedures whereby the identification under this section of one or more areas in the community as having special flood hazards may be appealed to the Administrator by the community or any owner or lessee of real property within the community who believes his property has been inadvertently included in a special flood hazard area by the identification. When, incident to any appeal under this subsection, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the