

TITLE II—FLOOD INSURANCE

Subtitle A—Flood Insurance Reform and Modernization

SEC. 100201. SHORT TITLE.

This subtitle may be cited as the “Biggert-Waters Flood Insurance Reform Act of 2012”.

SEC. 100202. DEFINITIONS.

(a) IN GENERAL.—In this subtitle, the following definitions shall apply:

(1) 100-YEAR FLOODPLAIN.—The term “100-year floodplain” means that area which is subject to inundation from a flood having a 1-percent chance of being equaled or exceeded in any given year.

(2) 500-YEAR FLOODPLAIN.—The term “500-year floodplain” means that area which is subject to inundation from a flood having a 0.2-percent chance of being equaled or exceeded in any given year.

(3) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(4) NATIONAL FLOOD INSURANCE PROGRAM.—The term “National Flood Insurance Program” means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

(5) WRITE YOUR OWN.—The term “Write Your Own” means the cooperative undertaking between the insurance industry and the Federal Insurance Administration which allows participating property and casualty insurance companies to write and service standard flood insurance policies.

(b) COMMON TERMINOLOGY.—Except as otherwise provided in this subtitle, any terms used in this subtitle shall have the meaning given to such terms under section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121).

SEC. 100203. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) FINANCING.—Section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amended by striking “July 31, 2012” and inserting “September 30, 2017”.

(b) PROGRAM EXPIRATION.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking “July 31, 2012” and inserting “September 30, 2017”.

SEC. 100204. AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.

Section 1305 of the National Flood Insurance Act of 1968 (42 U.S.C. 4012) is amended—

(1) in subsection (b)(2)(A), by inserting “not described in subsection (a) or (d)” after “properties”; and

(2) by adding at the end the following:

“(d) AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.—

“(1) IN GENERAL.—The Administrator shall make flood insurance available to cover residential properties of 5 or more residences. Notwithstanding any other provision of law, the

maximum coverage amount that the Administrator may make available under this subsection to such residential properties shall be equal to the coverage amount made available to commercial properties.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the ability of individuals residing in residential properties of 5 or more residences to obtain insurance for the contents and personal articles located in such residences.”.

SEC. 100205. REFORM OF PREMIUM RATE STRUCTURE.

(a) TO EXCLUDE CERTAIN PROPERTIES FROM RECEIVING SUBSIDIZED PREMIUM RATES.—

(1) IN GENERAL.—Section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended—

(A) in subsection (a)(2), by striking “for any residential property which is not the primary residence of an individual; and” and inserting the following: “for—

“(A) any residential property which is not the primary residence of an individual;

“(B) any severe repetitive loss property;

“(C) any property that has incurred flood-related damage in which the cumulative amounts of payments under this title equaled or exceeded the fair market value of such property;

“(D) any business property; or

“(E) any property which on or after the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 has experienced or sustained—

“(i) substantial damage exceeding 50 percent of the fair market value of such property; or

“(ii) substantial improvement exceeding 30 percent of the fair market value of such property; and”;

(B) by adding at the end the following:

“(g) NO EXTENSION OF SUBSIDY TO NEW POLICIES OR LAPSED POLICIES.—The Administrator shall not provide flood insurance to prospective insureds at rates less than those estimated under subsection (a)(1), as required by paragraph (2) of that subsection, for—

“(1) any property not insured by the flood insurance program as of the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012;

“(2) any property purchased after the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012;

“(3) any policy under the flood insurance program that has lapsed in coverage, as a result of the deliberate choice of the holder of such policy; or

“(4) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—

“(A) following a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); or

“(B) in connection with—

“(i) a repetitive loss property; or

“(ii) a severe repetitive loss property.

“(h) DEFINITION.—In this section, the term ‘severe repetitive loss property’ has the following meaning:

“(1) SINGLE-FAMILY PROPERTIES.—In the case of a property consisting of 1 to 4 residences, such term means a property that—

“(A) is covered under a contract for flood insurance made available under this title; and

“(B) has incurred flood-related damage—

“(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this chapter, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

“(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

“(2) MULTIFAMILY PROPERTIES.—In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director shall by regulation provide.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective 90 days after the date of enactment of this Act.

(b) ESTIMATES OF PREMIUM RATES.—Section 1307(a)(1)(B) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)(1)(B)) is amended—

(1) in clause (ii), by striking “and” at the end;

(2) in clause (iii), by adding “and” at the end; and

(3) by inserting after clause (iii) the following:

“(iv) all costs, as prescribed by principles and standards of practice in ratemaking adopted by the American Academy of Actuaries and the Casualty Actuarial Society, including—

“(I) an estimate of the expected value of future costs,

“(II) all costs associated with the transfer of risk, and

“(III) the costs associated with an individual risk transfer with respect to risk classes, as defined by the Administrator.”.

(c) INCREASE IN ANNUAL LIMITATION ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “or (3)”; and

(B) by inserting “any properties” after “under this title for”;

(2) in paragraph (1)—

(A) by striking “any properties within any single” and inserting “within any single”; and

(B) by striking “10 percent” and inserting “20 percent”;

and

(3) by striking paragraph (2) and inserting the following:

“(2) described in subparagraphs (A) through (E) of section 1307(a)(2) 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).”.

(d) **PREMIUM PAYMENT FLEXIBILITY FOR NEW AND EXISTING POLICYHOLDERS.**—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following:

“(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 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) with the option of paying their premiums either annually or in more frequent installments.”.

(e) **RULE OF CONSTRUCTION.**—Nothing in this section 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), 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.

SEC. 100207. PREMIUM ADJUSTMENT.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015), as amended by section 100205, is further amended by adding at the end the following:

“(h) **PREMIUM ADJUSTMENT TO REFLECT CURRENT RISK OF FLOOD.**—Notwithstanding subsection (f), upon the effective date of any revised or updated flood insurance rate map under this Act, the Flood Disaster Protection Act of 1973, or the Biggert-Waters Flood Insurance Reform Act of 2012, any property located in an area that is participating in the national flood insurance program shall have the risk premium rate charged for flood insurance on such property adjusted to accurately reflect the current risk of flood to such property, subject to any other provision of this Act. Any increase in the risk premium rate charged for flood insurance on any property that is covered by a flood insurance policy on the effective date of such an update that is a result of such updating shall be phased in over a 5-year period, at the rate of 20 percent for each year following such effective date. In the case of any area that was not previously designated as an area 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, the chargeable risk premium rate for flood insurance under this title that is purchased on or after the date of enactment of this subsection with respect to any property that is located within such area shall be phased in over a 5-year period, at the rate of 20 percent for each year following the effective date of such issuance, revision, updating, or change.”.

SEC. 100208. ENFORCEMENT.

Section 102(f)(5) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(5)) is amended—

(1) in the first sentence, by striking “\$350” and inserting “\$2,000”; and

(2) by striking the second sentence.

SEC. 100209. ESCROW OF FLOOD INSURANCE PAYMENTS.

(a) **IN GENERAL.**—Paragraph (1) of section 102(d) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)) is amended to read as follows:

“(1) **REGULATED LENDING INSTITUTIONS.**—

“(A) **FEDERAL ENTITIES RESPONSIBLE FOR LENDING REGULATIONS.**—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that all premiums and fees for flood insurance under the National Flood Insurance Act of 1968, for improved real estate or a mobile home, shall be paid to the regulated lending institution or servicer for any loan secured by the improved real estate or mobile home, with the same frequency as payments on the loan are made, for the duration of the loan. Except as provided in subparagraph (C), upon receipt of any premiums or fees, the regulated lending institution or servicer shall deposit such premiums and fees in an escrow account on behalf of the borrower. Upon receipt of a notice from the Administrator or the provider of the flood insurance that insurance premiums are due, the premiums deposited in the escrow account shall be paid to the provider of the flood insurance.

“(B) **LIMITATION.**—Except as may be required under applicable State law, a Federal entity for lending regulation may not direct or require a regulated lending institution to deposit premiums or fees for flood insurance under the National Flood Insurance Act of 1968 in an escrow account on behalf of a borrower under subparagraph (A) or (B), if—

“(i) the regulated lending institution has total assets of less than \$1,000,000,000; and

“(ii) on or before the date of enactment of the Biggert-Waters Flood Insurance Reform Act of 2012, the regulated lending institution—

“(I) in the case of a loan secured by residential improved real estate or a mobile home, was not required under Federal or State law to deposit taxes, insurance premiums, fees, or any other charges in an escrow account for the entire term of the loan; and

“(II) did not have a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for loans secured by residential improved real estate or a mobile home.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to any mortgage outstanding or entered into on or after the expiration of the 2-year period beginning on the date of enactment of this Act.

SEC. 100210. MINIMUM DEDUCTIBLES FOR CLAIMS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.

Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019) is amended—

(1) by striking “The Director is” and inserting the following: “(a) **IN GENERAL.**—The Administrator is”; and

(2) by adding at the end the following:

“(b) MINIMUM ANNUAL DEDUCTIBLE.—

“(1) PRE-FIRM PROPERTIES.—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Administrator under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

“(A) \$1,500, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

“(B) \$2,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.

“(2) POST-FIRM PROPERTIES.—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Administrator under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

“(A) \$1,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

“(B) \$1,250, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.”.

SEC. 100211. CONSIDERATIONS IN DETERMINING CHARGEABLE PREMIUM RATES.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015), as amended by this Act, is amended—

(1) in subsection (a), by striking “, after consultation with” and all that follows through “by regulation” and inserting “prescribe, after providing notice”;

(2) in subsection (b)—

(A) in paragraph (1), by striking the period at the end and inserting a semicolon;

(B) in paragraph (2), by striking the comma at the end and inserting a semicolon;

(C) in paragraph (3), by striking “, and” and inserting a semicolon;

(D) in paragraph (4), by striking the period at the end and inserting “; and”; and

(E) by adding at the end the following:

“(5) adequate, on the basis of accepted actuarial principles, to cover the average historical loss year obligations incurred by the National Flood Insurance Fund.”; and

(3) by adding at the end the following:

“(i) 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.”.

SEC. 100212. RESERVE FUND.

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by inserting after section 1310 (42 U.S.C. 4017) the following:

“SEC. 1310A. RESERVE FUND.

“(a) ESTABLISHMENT OF RESERVE FUND.—In carrying out the flood insurance program authorized by this chapter, the Administrator shall establish in the Treasury of the United States a National Flood Insurance Reserve Fund (in this section referred to as the ‘Reserve Fund’) which shall—

“(1) be an account separate from any other accounts or funds available to the Administrator; and

“(2) be available for meeting the expected future obligations of the flood insurance program, including—

“(A) the payment of claims;

“(B) claims adjustment expenses; and

“(C) the repayment of amounts outstanding under any note or other obligation issued by the Administrator under section 1309(a).

“(b) RESERVE RATIO.—Subject to the phase-in requirements under subsection (d), the Reserve Fund shall maintain a balance equal to—

“(1) 1 percent of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year; or

“(2) such higher percentage as the Administrator determines to be appropriate, taking into consideration any circumstance that may raise a significant risk of substantial future losses to the Reserve Fund.

“(c) MAINTENANCE OF RESERVE RATIO.—

“(1) IN GENERAL.—The Administrator shall have the authority to establish, increase, or decrease the amount of aggregate annual insurance premiums to be collected for any fiscal year necessary—

“(A) to maintain the reserve ratio required under subsection (b); and

“(B) to achieve such reserve ratio, if the actual balance of such reserve is below the amount required under subsection (b).

“(2) CONSIDERATIONS.—In exercising the authority granted under paragraph (1), the Administrator shall consider—

“(A) the expected operating expenses of the Reserve Fund;

“(B) the insurance loss expenditures under the flood insurance program;

“(C) any investment income generated under the flood insurance program; and

“(D) any other factor that the Administrator determines appropriate.

“(3) LIMITATIONS.—

“(A) RATES.—In exercising the authority granted under paragraph (1), the Administrator shall be subject to all other provisions of this Act, including any provisions relating to chargeable premium rates or annual increases of such rates.

“(B) USE OF ADDITIONAL ANNUAL INSURANCE PREMIUMS.—Notwithstanding any other provision of law or any agreement entered into by the Administrator, the Administrator shall ensure that all amounts attributable to the establishment or increase of annual insurance premiums under paragraph (1) are transferred to the Administrator for deposit into the Reserve Fund, to be available for meeting the expected future obligations of the flood insurance program as described in subsection (a)(2).

“(d) PHASE-IN REQUIREMENTS.—The phase-in requirements under this subsection are as follows:

“(1) IN GENERAL.—Beginning in fiscal year 2013 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved, in each such fiscal year the Administrator shall place in the Reserve Fund an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

“(2) AMOUNT SATISFIED.—As soon as the ratio required under subsection (b) is achieved, and except as provided in paragraph (3), the Administrator shall not be required to set aside any amounts for the Reserve Fund.

“(3) EXCEPTION.—If at any time after the ratio required under subsection (b) is achieved, the Reserve Fund falls below the required ratio under subsection (b), the Administrator shall place in the Reserve Fund for that fiscal year an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

“(e) LIMITATION ON RESERVE RATIO.—In any given fiscal year, if the Administrator determines that the reserve ratio required under subsection (b) cannot be achieved, the Administrator shall submit a report to Congress that—

“(1) describes and details the specific concerns of the Administrator regarding the consequences of the reserve ratio not being achieved;

“(2) demonstrates how such consequences would harm the long-term financial soundness of the flood insurance program; and

“(3) indicates the maximum attainable reserve ratio for that particular fiscal year.

“(f) INVESTMENT.—The Secretary of the Treasury shall invest such amounts of the Reserve Fund as the Secretary determines advisable in obligations issued or guaranteed by the United States.”.

SEC. 100213. REPAYMENT PLAN FOR BORROWING AUTHORITY.

(a) REPAYMENT PLAN REQUIRED.—Section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016) is amended by adding at the end the following:

“(c) Upon the exercise of the authority established under subsection (a), the Administrator shall transmit a schedule for repayment of such amounts to—

“(1) the Secretary of the Treasury;

“(2) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(3) the Committee on Financial Services of the House of Representatives.

“(d) In connection with any funds borrowed by the Administrator under the authority established in subsection (a), the

Administrator, beginning 6 months after the date on which such funds are borrowed, and continuing every 6 months thereafter until such borrowed funds are fully repaid, shall submit a report on the progress of such repayment to—

- “(1) the Secretary of the Treasury;
- “(2) the Committee on Banking, Housing, and Urban Affairs of the Senate; and
- “(3) the Committee on Financial Services of the House of Representatives.”.

(b) REPORT.—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Administrator shall submit a report to the Congress setting forth options for repaying within 10 years all amounts, including any amounts previously borrowed but not yet repaid, owed pursuant to clause (2) of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)(2)).

SEC. 100214. PAYMENT OF CONDOMINIUM CLAIMS.

Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019), as amended by section 100210, is amended by adding at the end the following:

“(c) PAYMENT OF CLAIMS TO CONDOMINIUM OWNERS.—The Administrator may not deny payment for any damage to or loss of property which is covered by flood insurance to condominium owners who purchased such flood insurance separate and apart from the flood insurance purchased by the condominium association in which such owner is a member, based solely, or in any part, on the flood insurance coverage of the condominium association or others on the overall property owned by the condominium association.”.

SEC. 100215. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the “Council”).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of—

- (A) the Administrator (or the designee thereof);
- (B) the Secretary of the Interior (or the designee thereof);
- (C) the Secretary of Agriculture (or the designee thereof);
- (D) the Under Secretary of Commerce for Oceans and Atmosphere (or the designee thereof); and
- (E) 16 additional members appointed by the Administrator or the designee of the Administrator, who shall be—

- (i) a member of a recognized professional surveying association or organization;
- (ii) a member of a recognized professional mapping association or organization;
- (iii) a member of a recognized professional engineering association or organization;
- (iv) a member of a recognized professional association or organization representing flood hazard determination firms;
- (v) a representative of the United States Geological Survey;

(vi) a representative of a recognized professional association or organization representing State geographic information;

(vii) a representative of State national flood insurance coordination offices;

(viii) a representative of the Corps of Engineers;

(ix) a member of a recognized regional flood and storm water management organization;

(x) 2 representatives of different State government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce flood insurance rate maps;

(xi) 2 representatives of different local government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce flood insurance maps;

(xii) a member of a recognized floodplain management association or organization;

(xiii) a member of a recognized risk management association or organization; and

(xiv) a State mitigation officer.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps. In appointing members under paragraph (1)(E), the Administrator shall, to the maximum extent practicable, ensure that the membership of the Council has a balance of Federal, State, local, tribal, and private members, and includes geographic diversity, including representation from areas with coastline on the Gulf of Mexico and other States containing areas identified by the Administrator as at high risk for flooding or as areas having special flood hazards.

(c) DUTIES.—The Council shall—

(1) recommend to the Administrator how to improve in a cost-effective manner the—

(A) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and

(B) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States;

(2) recommend to the Administrator mapping standards and guidelines for—

(A) flood insurance rate maps; and

(B) data accuracy, data quality, data currency, and data eligibility;

(3) recommend to the Administrator how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification;

(4) recommend procedures for delegating mapping activities to State and local mapping partners;

(5) recommend to the Administrator and other Federal agencies participating in the Council—

(A) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination; and

(B) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies; and

(6) submit an annual report to the Administrator that contains—

(A) a description of the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as required under section 100216; and

(C) a summary of recommendations made by the Council to the Administrator.

(d) FUTURE CONDITIONS RISK ASSESSMENT AND MODELING REPORT.—

(1) IN GENERAL.—The Council shall consult with scientists and technical experts, other Federal agencies, States, and local communities to—

(A) develop recommendations on how to—

(i) ensure that flood insurance rate maps incorporate the best available climate science to assess flood risks; and

(ii) ensure that the Federal Emergency Management Agency uses the best available methodology to consider the impact of—

(I) the rise in the sea level; and

(II) future development on flood risk; and

(B) not later than 1 year after the date of enactment of this Act, prepare written recommendations in a future conditions risk assessment and modeling report and to submit such recommendations to the Administrator.

(2) RESPONSIBILITY OF THE ADMINISTRATOR.—The Administrator, as part of the ongoing program to review and update National Flood Insurance Program rate maps under section 100216, shall incorporate any future risk assessment submitted under paragraph (1)(B) in any such revision or update.

(e) CHAIRPERSON.—The members of the Council shall elect 1 member to serve as the chairperson of the Council (in this section referred to as the “Chairperson”).

(f) COORDINATION.—To ensure that the Council’s recommendations are consistent, to the maximum extent practicable, with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to Office of Management and Budget Circular A-16).

(g) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(h) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less frequently than twice each year at the request of the Chairperson or a majority of its members, and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Administrator, or a person designated by the Administrator, shall request and coordinate the initial meeting of the Council.

(i) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(j) STAFF.—

(1) STAFF OF FEMA.—Upon the request of the Chairperson, the Administrator may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(2) STAFF OF OTHER FEDERAL AGENCIES.—Upon request of the Chairperson, any other Federal agency that is a member of the Council may detail, on a nonreimbursable basis, personnel to assist the Council in carrying out its duties.

(k) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research, as it considers appropriate.

(l) REPORT TO CONGRESS.—The Administrator, on an annual basis, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Office of Management and Budget on the—

(1) recommendations made by the Council;

(2) actions taken by the Federal Emergency Management Agency to address such recommendations to improve flood insurance rate maps and flood risk data; and

(3) any recommendations made by the Council that have been deferred or not acted upon, together with an explanatory statement.

SEC. 100216. NATIONAL FLOOD MAPPING PROGRAM.

(a) REVIEWING, UPDATING, AND MAINTAINING MAPS.—The Administrator, in coordination with the Technical Mapping Advisory Council established under section 100215, shall establish an ongoing program under which the Administrator shall review, update, and maintain National Flood Insurance Program rate maps in accordance with this section.

(b) MAPPING.—

(1) IN GENERAL.—In carrying out the program established under subsection (a), the Administrator shall—

(A) identify, review, update, maintain, and publish National Flood Insurance Program rate maps with respect to—

(i) all populated areas and areas of possible population growth located within the 100-year floodplain;

(ii) all populated areas and areas of possible population growth located within the 500-year floodplain;

(iii) areas of residual risk, including areas that are protected by levees, dams, and other flood control structures;

(iv) areas that could be inundated as a result of the failure of a levee, dam, or other flood control structure; and

(v) the level of protection provided by flood control structures;

(B) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each such area; and

(C) use, in identifying, reviewing, updating, maintaining, or publishing any National Flood Insurance Program rate map required under this section or under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), the most accurate topography and elevation data available.

(2) MAPPING ELEMENTS.—Each map updated under this section shall—

(A) assess the accuracy of current ground elevation data used for hydrologic and hydraulic modeling of flooding sources and mapping of the flood hazard and wherever necessary acquire new ground elevation data utilizing the most up-to-date geospatial technologies in accordance with guidelines and specifications of the Federal Emergency Management Agency; and

(B) develop National Flood Insurance Program flood data on a watershed basis—

(i) to provide the most technically effective and efficient studies and hydrologic and hydraulic modeling; and

(ii) to eliminate, to the maximum extent possible, discrepancies in base flood elevations between adjacent political subdivisions.

(3) OTHER INCLUSIONS.—In updating maps under this section, the Administrator shall include—

(A) any relevant information on coastal inundation from—

(i) an applicable inundation map of the Corps of Engineers; and

(ii) data of the National Oceanic and Atmospheric Administration relating to storm surge modeling;

(B) any relevant information of the United States Geological Survey on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Administrator;

(C) any relevant information on land subsidence, coastal erosion areas, changing lake levels, and other flood-related hazards;

(D) any relevant information or data of the National Oceanic and Atmospheric Administration and the United States Geological Survey relating to the best available science regarding future changes in sea levels, precipitation, and intensity of hurricanes; and

(E) any other relevant information as may be recommended by the Technical Mapping Advisory Committee.

(c) STANDARDS.—In updating and maintaining maps under this section, the Administrator shall—

(1) establish standards to—

(A) ensure that maps are adequate for—

(i) flood risk determinations; and

(ii) use by State and local governments in managing development to reduce the risk of flooding; and

(B) facilitate identification and use of consistent methods of data collection and analysis by the Administrator, in conjunction with State and local governments, in developing maps for communities with similar flood risks, as determined by the Administrator; and

- (2) publish maps in a format that is—
 - (A) digital geospatial data compliant;
 - (B) compliant with the open publishing and data exchange standards established by the Open Geospatial Consortium; and
 - (C) aligned with official data defined by the National Geodetic Survey.
- (d) COMMUNICATION AND OUTREACH.—
 - (1) IN GENERAL.—The Administrator shall—
 - (A) work to enhance communication and outreach to States, local communities, and property owners about the effects—
 - (i) of any potential changes to National Flood Insurance Program rate maps that may result from the mapping program required under this section; and
 - (ii) that any such changes may have on flood insurance purchase requirements;
 - (B) engage with local communities to enhance communication and outreach to the residents of such communities, including tenants (with regard to contents insurance), on the matters described under subparagraph (A); and
 - (C) upon the issuance of any proposed map and any notice of an opportunity to make an appeal relating to the proposed map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the proposed map of any action taken by the Administrator with respect to the proposed map or an appeal relating to the proposed map.
 - (2) REQUIRED ACTIVITIES.—The communication and outreach activities required under paragraph (1) shall include—
 - (A) notifying property owners when their properties become included in, or when they are excluded from, an area covered by the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a);
 - (B) educating property owners regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;
 - (C) educating property owners regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) for such properties and the contents of such properties;
 - (D) educating property owners about flood map revisions and the process available to such owners to appeal proposed changes in flood elevations through their community, including by notifying local radio and television stations; and
 - (E) encouraging property owners to maintain or acquire flood insurance coverage.
- (e) COMMUNITY REMAPPING REQUEST.—Upon the adoption by the Administrator of any recommendation by the Technical Mapping Advisory Council for reviewing, updating, or maintaining National Flood Insurance Program rate maps in accordance with this section,

a community that believes that its flood insurance rates in effect prior to adoption would be affected by the adoption of such recommendation may submit a request for an update of its rate maps, which may be considered at the Administrator's sole discretion. The Administrator shall establish a protocol for the evaluation of such community map update requests.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$400,000,000 for each of fiscal years 2013 through 2017.

SEC. 100217. SCOPE OF APPEALS.

Section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104) is amended—

(1) in subsection (a)—

(A) by inserting “and designating areas having special flood hazards” after “flood elevations”; and

(B) by striking “such determinations” and inserting “such determinations and designations”; and

(2) in subsection (b)—

(A) in the first sentence, by inserting “and designations of areas having special flood hazards” after “flood elevation determinations”; and

(B) by amending the third sentence to read as follows: “The sole grounds for appeal shall be the possession of knowledge or information indicating that (1) the elevations being proposed by the Administrator with respect to an identified area having special flood hazards are scientifically or technically incorrect, or (2) the designation of an identified special flood hazard area is scientifically or technically incorrect.”.

SEC. 100218. SCIENTIFIC RESOLUTION PANEL.

(a) ESTABLISHMENT.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by inserting after section 1363 (42 U.S.C. 4104) the following:

“SEC. 1363A. SCIENTIFIC RESOLUTION PANEL.

“(a) AVAILABILITY.—

“(1) IN GENERAL.—Pursuant to the authority provided under section 1363(e), the Administrator shall make available an independent review panel, to be known as the Scientific Resolution Panel, to any community—

“(A) that has—

“(i) filed a timely map appeal in accordance with section 1363;

“(ii) completed 60 days of consultation with the Federal Emergency Management Agency on the appeal; and

“(iii) not allowed more than 120 days, or such longer period as may be provided by the Administrator by waiver, to pass since the end of the appeal period; or

“(B) that has received an unsatisfactory ruling under the map revision process established pursuant to section 1360(f).

“(2) APPEALS BY OWNERS AND LESSEES.—If a community and an owner or lessee of real property within the community

appeal a proposed determination of a flood elevation under section 1363(b), upon the request of the community—

“(A) the owner or lessee shall submit scientific and technical data relating to the appeals to the Scientific Resolution Panel; and

“(B) the Scientific Resolution Panel shall make a determination with respect to the appeals in accordance with subsection (c).

“(3) DEFINITION.—For purposes of paragraph (1)(B), an ‘unsatisfactory ruling’ means that a community—

“(A) received a revised Flood Insurance Rate Map from the Federal Emergency Management Agency, via a Letter of Final Determination, after September 30, 2008, and prior to the date of enactment of this section;

“(B) has subsequently applied for a Letter of Map Revision or Physical Map Revision with the Federal Emergency Management Agency; and

“(C) has received an unfavorable ruling on their request for a map revision.

“(b) MEMBERSHIP.—The Scientific Resolution Panel made available under subsection (a) shall consist of 5 members with expertise that relates to the creation and study of flood hazard maps and flood insurance. The Scientific Resolution Panel may include representatives from Federal agencies not involved in the mapping study in question and from other impartial experts. Employees of the Federal Emergency Management Agency may not serve on the Scientific Resolution Panel.

“(c) DETERMINATION.—

“(1) IN GENERAL.—Following deliberations, and not later than 90 days after its formation, the Scientific Resolution Panel shall issue a determination of resolution of the dispute. Such determination shall set forth recommendations for the base flood elevation determination or the designation of an area having special flood hazards that shall be reflected in the Flood Insurance Rate Maps.

“(2) BASIS.—The determination of the Scientific Resolution Panel shall be based on—

“(A) data previously provided to the Administrator by the community, and, in the case of a dispute submitted under subsection (a)(2), an owner or lessee of real property in the community; and

“(B) data provided by the Administrator.

“(3) NO ALTERNATIVE DETERMINATIONS PERMISSIBLE.—The Scientific Resolution Panel—

“(A) shall provide a determination of resolution of a dispute that—

“(i) is either in favor of the Administrator or in favor of the community on each distinct element of the dispute; or

“(ii) in the case of a dispute submitted under subsection (a)(2), is in favor of the Administrator, in favor of the community, or in favor of the owner or lessee of real property in the community on each distinct element of the dispute; and

“(B) may not offer as a resolution any other alternative determination.

“(4) EFFECT OF DETERMINATION.—

“(A) BINDING.—The recommendations of the Scientific Resolution Panel shall be binding on all appellants and not subject to further judicial review unless the Administrator determines that implementing the determination of the panel would—

“(i) pose a significant threat due to failure to identify a substantial risk of special flood hazards; or

“(ii) violate applicable law.

“(B) WRITTEN JUSTIFICATION NOT TO ENFORCE.—If the Administrator elects not to implement the determination of the Scientific Resolution Panel pursuant to subparagraph (A), then not later than 60 days after the issuance of the determination, the Administrator shall issue a written justification explaining such election.

“(C) APPEAL OF DETERMINATION NOT TO ENFORCE.—If the Administrator elects not to implement the determination of the Scientific Resolution Panel pursuant to subparagraph (A), the community may appeal the determination of the Administrator as provided for under section 1363(g).

“(d) MAPS USED FOR INSURANCE AND MANDATORY PURCHASE REQUIREMENTS.—With respect to any community that has a dispute that is being considered by the Scientific Resolution Panel formed pursuant to this subsection, the Federal Emergency Management Agency shall ensure that for each such community that—

“(1) the Flood Insurance Rate Map described in the most recently issued Letter of Final Determination shall be in force and effect with respect to such community; and

“(2) flood insurance shall continue to be made available to the property owners and residents of the participating community.”.

(b) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE REVIEW.—Section 1363(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(e)) is amended, in the second sentence, by striking “an independent scientific body or appropriate Federal agency for advice” and inserting “the Scientific Resolution Panel provided for in section 1363A”.

(2) JUDICIAL REVIEW.—The first sentence of section 1363(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(g)) is amended by striking “Any appellant” and inserting “Except as provided in section 1363A, any appellant”.

SEC. 100219. REMOVAL OF LIMITATION ON STATE CONTRIBUTIONS FOR UPDATING FLOOD MAPS.

Section 1360(f)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(f)(2)) is amended by striking “, but which may not exceed 50 percent of the cost of carrying out the requested revision or update”.

SEC. 100220. COORDINATION.

(a) INTERAGENCY BUDGET CROSSCUT AND COORDINATION REPORT.—

(1) IN GENERAL.—The Secretary of Homeland Security, the Administrator, the Director of the Office of Management and Budget, and the heads of each Federal department or agency carrying out activities under sections 100215 and 100216 shall work together to ensure that flood risk determination data and geospatial data are shared among Federal agencies in

order to coordinate the efforts of the Nation to reduce its vulnerability to flooding hazards.

(2) REPORT.—Not later than 30 days after the submission of the budget of the United States Government by the President to Congress, the Director of the Office of Management and Budget, in coordination with the Federal Emergency Management Agency, the United States Geological Survey, the National Oceanic and Atmospheric Administration, the Corps of Engineers, and other Federal agencies, as appropriate, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives an interagency budget crosscut and coordination report, certified by the Secretary or head of each such agency, that—

(A) contains an interagency budget crosscut report that displays relevant sections of the budget proposed for each of the Federal agencies working on flood risk determination data and digital elevation models, including any planned interagency or intra-agency transfers; and

(B) describes how the efforts aligned with such sections complement one another.

(b) DUTIES OF THE ADMINISTRATOR.—In carrying out sections 100215 and 100216, the Administrator shall—

(1) participate, pursuant to section 216 of the E-Government Act of 2002 (44 U.S.C. 3501 note), in the establishment of such standards and common protocols as are necessary to assure the interoperability of geospatial data for all users of such information;

(2) coordinate with, seek assistance and cooperation of, and provide a liaison to the Federal Geographic Data Committee pursuant to the Office of Management and Budget Circular A-16 and Executive Order 12906 (43 U.S.C. 1457 note; relating to the National Spatial Data Infrastructure) for the implementation of and compliance with such standards;

(3) integrate with, leverage, and coordinate funding of, to the maximum extent practicable, the current flood mapping activities of each unit of State and local government;

(4) integrate with, leverage, and coordinate, to the maximum extent practicable, the current geospatial activities of other Federal agencies and units of State and local government; and

(5) develop a funding strategy to leverage and coordinate budgets and expenditures, and to maintain or establish joint funding and other agreement mechanisms with other Federal agencies and units of State and local government to share in the collection and utilization of geospatial data among all governmental users.

SEC. 100221. INTERAGENCY COORDINATION STUDY.

(a) IN GENERAL.—The Administrator shall enter into a contract with the National Academy of Public Administration to conduct a study on how the Federal Emergency Management Agency—

(1) should improve interagency and intergovernmental coordination on flood mapping, including a funding strategy to leverage and coordinate budgets and expenditures; and

(2) can establish joint funding mechanisms with other Federal agencies and units of State and local government to share

the collection and utilization of data among all governmental users.

(b) **TIMING.**—A contract entered into under subsection (a) shall require that, not later than 180 days after the date of enactment of this subtitle, the National Academy of Public Administration shall report the findings of the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) the Committee on Financial Services of the House of Representatives;

(3) the Committee on Appropriations of the Senate; and

(4) the Committee on Appropriations of the House of Representatives.

SEC. 100222. NOTICE OF FLOOD INSURANCE AVAILABILITY UNDER RESPA.

Section 5(b) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(b)), as amended by section 1450 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203; 124 Stat. 2174), is amended by adding at the end the following:

“(14) An explanation of flood insurance and the availability of flood insurance under the National Flood Insurance Program or from a private insurance company, whether or not the real estate is located in an area having special flood hazards.”.

SEC. 100223. PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by inserting after section 1313 (42 U.S.C. 4020) the following:

“SEC. 1314. PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.

“(a) **REQUIREMENT TO PARTICIPATE.**—In the case of the occurrence of a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), that may have resulted in flood damage covered under the national flood insurance program established under this title and other personal lines residential property insurance coverage offered by a State regulated insurer, upon a request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Administrator in a program sponsored by such State for nonbinding mediation of insurance claims resulting from a major disaster, the Administrator shall cause representatives of the national flood insurance program to participate in such a State program where claims under the national flood insurance program are involved to expedite settlement of flood damage claims resulting from such disaster.

“(b) **EXTENT OF PARTICIPATION.**—In satisfying the requirements of subsection (a), the Administrator shall require that each representative of the Administrator—

“(1) be certified for purposes of the national flood insurance program to settle claims against such program resulting from such disaster in amounts up to the limits of policies under such program;

“(2) attend State-sponsored mediation meetings regarding flood insurance claims resulting from such disaster at such times and places as may be arranged by the State;

“(3) participate in good-faith negotiations toward the settlement of such claims with policyholders of coverage made available under the national flood insurance program; and

“(4) finalize the settlement of such claims on behalf of the national flood insurance program with such policyholders.

“(c) COORDINATION.—Representatives of the Administrator shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purposes of consolidating and expediting settlement of claims under the national flood insurance program resulting from such disaster.

“(d) QUALIFICATIONS OF MEDIATORS.—Each State mediator participating in State-sponsored mediation under this section shall be—

“(1)(A) a member in good standing of the State bar in the State in which the mediation is to occur with at least 2 years of practical experience; and

“(B) an active member of such bar for at least 1 year prior to the year in which such mediator’s participation is sought; or

“(2) a retired trial judge from any United States jurisdiction who was a member in good standing of the bar in the State in which the judge presided for at least 5 years prior to the year in which such mediator’s participation is sought.

“(e) MEDIATION PROCEEDINGS AND DOCUMENTS PRIVILEGED.—As a condition of participation, all statements made and documents produced pursuant to State-sponsored mediation involving representatives of the Administrator shall be deemed privileged and confidential settlement negotiations made in anticipation of litigation.

“(f) LIABILITY, RIGHTS, OR OBLIGATIONS NOT AFFECTED.—Participation in State-sponsored mediation, as described in this section does not—

“(1) affect or expand the liability of any party in contract or in tort; or

“(2) affect the rights or obligations of the parties, as established—

“(A) in any regulation issued by the Administrator, including any regulation relating to a standard flood insurance policy;

“(B) under this title; and

“(C) under any other provision of Federal law.

“(g) EXCLUSIVE FEDERAL JURISDICTION.—Participation in State-sponsored mediation shall not alter, change, or modify the original exclusive jurisdiction of United States courts, as set forth in this title.

“(h) COST LIMITATION.—Nothing in this section shall be construed to require the Administrator or a representative of the Administrator to pay additional mediation fees relating to flood insurance claims associated with a State-sponsored mediation program in which such representative of the Administrator participates.

“(i) EXCEPTION.—In the case of the occurrence of a major disaster that results in flood damage claims under the national flood

insurance program and that does not result in any loss covered by a personal lines residential property insurance policy—

“(1) this section shall not apply; and

“(2) the provisions of the standard flood insurance policy under the national flood insurance program and the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note) and the regulations issued pursuant to such section shall apply exclusively.

“(j) REPRESENTATIVES OF THE ADMINISTRATOR.—For purposes of this section, the term ‘representatives of the Administrator’ means representatives of the national flood insurance program who participate in the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).”.

SEC. 100224. OVERSIGHT AND EXPENSE REIMBURSEMENTS OF INSURANCE COMPANIES.

(a) SUBMISSION OF BIENNIAL REPORTS.—

(1) TO THE ADMINISTRATOR.—Not later than 20 days after the date of enactment of this Act, each property and casualty insurance company participating in the Write Your Own program shall submit to the Administrator any biennial report required by the Federal Emergency Management Agency to be prepared in the prior 5 years by such company.

(2) TO GAO.—Not later than 10 days after the submission of the biennial reports under paragraph (1), the Administrator shall submit all such reports to the Comptroller General of the United States.

(3) NOTICE TO CONGRESS OF FAILURE TO COMPLY.—The Administrator shall notify and report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on any property and casualty insurance company participating in the Write Your Own program that failed to submit its biennial reports as required under paragraph (1).

(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, 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, 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 practicably 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 Representatives 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.

SEC. 100225. MITIGATION.

(a) **MITIGATION ASSISTANCE GRANTS.**—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended—

(1) by striking subsections (b), (d), (f), (g), (h), (k), and (m);

(2) by redesignating subsections (c), (e), (i), and (j) as subsections (b), (c), (e), and (f), respectively;

(3) in subsection (a), by striking the last sentence and inserting the following: “Such financial assistance shall be made available—

“(1) to States and communities in the form of grants under this section for carrying out mitigation activities;

“(2) to States and communities in the form of grants under this section for carrying out mitigation activities that reduce flood damage to severe repetitive loss structures; and

“(3) to property owners in the form of direct grants under this section for carrying out mitigation activities that reduce flood damage to individual structures for which 2 or more claim payments for losses have been made under flood insurance coverage under this title if the Administrator, after consultation with the State and community, determines that neither the State nor community in which such a structure is located has the capacity to manage such grants.”;

(4) in subsection (b), as so redesignated, in the first sentence—

(A) by striking “and provides protection against” and inserting “provides for reduction of”; and

(B) by inserting before the period at the end the following: “, and may be included in a multihazard mitigation plan”;

(5) in subsection (c), as so redesignated—

(A) in paragraph (1), by striking “(1) USE OF AMOUNTS.—” and all that follows through the end of the first sentence and inserting the following:

“(1) **REQUIREMENT OF CONSISTENCY WITH APPROVED MITIGATION PLAN.**—Amounts provided under this section may be used only for mitigation activities that are consistent with mitigation plans that are approved by the Administrator and identified under paragraph (4).”;

(B) by striking paragraphs (2), (3), and (4) and inserting the following new paragraphs:

“(2) REQUIREMENTS OF TECHNICAL FEASIBILITY, COST EFFECTIVENESS, AND INTEREST OF NATIONAL FLOOD INSURANCE FUND.—

“(A) IN GENERAL.—The Administrator may approve only mitigation activities that the Administrator determines—

“(i) are technically feasible and cost-effective; or

“(ii) will eliminate future payments from the National Flood Insurance Fund for severe repetitive loss structures through an acquisition or relocation activity.

“(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator shall take into consideration recognized ancillary benefits.”;

(C) by redesignating paragraph (5) as paragraph (3);

(D) in paragraph (3), as so redesignated—

(i) in the matter preceding subparagraph (A), by striking “The Director” and all that follows through “Such activities may” and inserting “Eligible activities under a mitigation plan may”;

(ii) by striking subparagraphs (E) and (H);

(iii) by redesignating subparagraphs (D), (F), and (G) as subparagraphs (E), (G), and (H), respectively;

(iv) by inserting after subparagraph (C) the following new subparagraph:

“(D) elevation, relocation, or floodproofing of utilities (including equipment that serves structures);”;

(v) by inserting after subparagraph (E), as so redesignated, the following new subparagraph:

“(F) the development or update of mitigation plans by a State or community which meet the planning criteria established by the Administrator, except that the amount from grants under this section that may be used under this subparagraph may not exceed \$50,000 for any mitigation plan of a State or \$25,000 for any mitigation plan of a community;”;

(vi) in subparagraph (H); as so redesignated, by striking “and” at the end; and

(vii) by adding at the end the following new subparagraphs:

“(I) other mitigation activities not described in subparagraphs (A) through (G) or the regulations issued under subparagraph (H), that are described in the mitigation plan of a State or community; and

“(J) without regard to the requirements under paragraphs (1) and (2) of subsection (d), and if the State applied for and was awarded at least \$1,000,000 in grants available under this section in the prior fiscal year, technical assistance to communities to identify eligible activities, to develop grant applications, and to implement grants awarded under this section, not to exceed \$50,000 to any 1 State in any fiscal year.”; and

(E) by striking paragraph (6) and inserting the following:

“(4) ELIGIBILITY OF DEMOLITION AND REBUILDING OF PROPERTIES.—The Administrator shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood elevation or greater, if required by the Administrator or if required by any State regulation or local ordinance, and in accordance with criteria established by the Administrator.”;

(6) by inserting after subsection (c), as so redesignated, the following new subsection:

“(d) MATCHING REQUIREMENT.—The Administrator may provide grants for eligible mitigation activities as follows:

“(1) SEVERE REPETITIVE LOSS STRUCTURES.—In the case of mitigation activities to severe repetitive loss structures, in an amount up to—

“(A) 100 percent of all eligible costs, if the activities are approved under subsection (c)(2)(A)(i); or

“(B) the expected savings to the National Flood Insurance Fund from expected avoided damages through acquisition or relocation activities, if the activities are approved under subsection (c)(2)(A)(ii).

“(2) REPETITIVE LOSS STRUCTURES.—In the case of mitigation activities to repetitive loss structures, in an amount up to 90 percent of all eligible costs.

“(3) OTHER MITIGATION ACTIVITIES.—In the case of all other mitigation activities, in an amount up to 75 percent of all eligible costs.”;

(7) in subsection (e)(2), as so redesignated—

(A) by striking “certified under subsection (g)” and inserting “required under subsection (d)”;

(B) by striking “3 times the amount” and inserting “the amount”;

(8) in subsection (f), as so redesignated, by striking “Riegle Community Development and Regulatory Improvement Act of 1994” and inserting “Biggert-Waters Flood Insurance Reform Act of 2012”; and

(9) by adding at the end the following new subsections:

“(g) FAILURE TO MAKE GRANT AWARD WITHIN 5 YEARS.—For any application for a grant under this section for which the Administrator fails to make a grant award within 5 years of the date of the application, the grant application shall be considered to be denied and any funding amounts allocated for such grant applications shall remain in the National Flood Mitigation Fund under section 1367 of this title and shall be made available for grants under this section.

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

“(1) COMMUNITY.—The term ‘community’ means—

“(A) a political subdivision that—

“(i) has zoning and building code jurisdiction over a particular area having special flood hazards; and

“(ii) is participating in the national flood insurance program; or

“(B) a political subdivision of a State, or other authority, that is designated by political subdivisions, all of which meet the requirements of subparagraph (A), to administer grants for mitigation activities for such political subdivisions.

“(2) REPETITIVE LOSS STRUCTURE.—The term ‘repetitive loss structure’ has the meaning given such term in section 1370.

“(3) SEVERE REPETITIVE LOSS STRUCTURE.—The term ‘severe repetitive loss structure’ means a structure that—

“(A) is covered under a contract for flood insurance made available under this title; and

“(B) has incurred flood-related damage—

“(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this title, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

“(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the insured structure.”

(b) ELIMINATION OF GRANTS PROGRAM FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.—Chapter I of the National Flood Insurance Act of 1968 is amended by striking section 1323 (42 U.S.C. 4030).

(c) ELIMINATION OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.—Chapter III of the National Flood Insurance Act of 1968 is amended by striking section 1361A (42 U.S.C. 4102a).

(d) NATIONAL FLOOD INSURANCE FUND.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (6), by inserting “and” after the semicolon;

(2) in paragraph (7), by striking the semicolon and inserting a period; and

(3) by striking paragraphs (8) and (9).

(e) NATIONAL FLOOD MITIGATION FUND.—Section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d) is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and inserting the following new paragraph:

“(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 1366(a)(1);

“(B) not more than \$40,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 1366(a)(2); and

“(C) not more than \$10,000,000 shall be available pursuant to subsection (a) of this section for assistance described in section 1366(a)(3);” and

(B) in paragraph (3), by striking “section 1366(i)” and inserting “section 1366(e)”;

(2) in subsection (c), by striking “sections 1366 and 1323” and inserting “section 1366”;

(3) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(4) by inserting after subsection (c) the following new subsections:

“(d) PROHIBITION ON OFFSETTING COLLECTIONS.—Notwithstanding any other provision of this title, amounts made available pursuant to this section shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

“(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 1366 is in the best interest of the National Flood Insurance Fund.”

(f) INCREASED COST OF COMPLIANCE COVERAGE.—Section 1304(b)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)(4)) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

SEC. 100226. FLOOD PROTECTION STRUCTURE ACCREDITATION TASK FORCE.

(a) DEFINITIONS.—In this section—

(1) the term “flood protection structure accreditation requirements” means the requirements established under section 65.10 of title 44, Code of Federal Regulations, for levee systems to be recognized on maps created for purposes of the National Flood Insurance Program;

(2) the term “National Committee on Levee Safety” means the Committee on Levee Safety established under section 9003 of the National Levee Safety Act of 2007 (33 U.S.C. 3302); and

(3) the term “task force” means the Flood Protection Structure Accreditation Task Force established under subsection (b).

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, in cooperation with the National Committee on Levee Safety, shall jointly establish a Flood Protection Structure Accreditation Task Force.

(2) DUTIES.—

(A) DEVELOPING PROCESS.—The task force shall develop a process to better align the information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program with the flood protection structure accreditation requirements so that—

(i) information and data collected for either purpose can be used interchangeably; and

(ii) information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program is sufficient to satisfy the flood protection structure accreditation requirements.

(B) GATHERING RECOMMENDATIONS.—The task force shall gather, and consider in the process developed under subparagraph (A), recommendations from interested persons in each region relating to the information, data, and accreditation requirements described in subparagraph (A).

(3) CONSIDERATIONS.—In developing the process under paragraph (2), the task force shall consider changes to—

(A) the information and data collected by or for the Corps of Engineers under the Inspection of Completed Works Program; and

(B) the flood protection structure accreditation requirements.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a reduction in the level of public safety and flood control provided by accredited levees, as determined by the Administrator for purposes of this section.

(c) IMPLEMENTATION.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, shall implement the process developed by the task force under subsection (b) not later than 1 year after the date of enactment of this Act and shall complete the process under subsection (b) not later than 2 years after the date of enactment of this Act.

(d) REPORTS.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, in cooperation with the National Committee on Levee Safety, shall jointly submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Financial Services, the Committee on Transportation and Infrastructure, and the Committee on Natural Resources of the House of Representatives reports concerning the activities of the task force and the implementation of the process developed by the task force under subsection (b), including—

(1) an interim report, not later than 180 days after the date of enactment of this Act; and

(2) a final report, not later than 1 year after the date of enactment of this Act.

(e) TERMINATION.—The task force shall terminate on the date of submission of the report under subsection (d)(2).

SEC. 100227. FLOOD IN PROGRESS DETERMINATIONS.

(a) REPORT.—

(1) REVIEW.—The Administrator shall review—

(A) the processes and procedures for determining that a flood event has commenced or is in progress for purposes of flood insurance coverage made available under the National Flood Insurance Program;

(B) the processes and procedures for providing public notification that such a flood event has commenced or is in progress;

(C) the processes and procedures regarding the timing of public notification of flood insurance requirements and availability; and

(D) the effects and implications that weather conditions, including rainfall, snowfall, projected snowmelt, existing water levels, and other conditions, have on the determination that a flood event has commenced or is in progress.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to Congress that describes—

(A) the results and conclusions of the review under paragraph (1); and

(B) any actions taken, or proposed actions to be taken, by the Administrator to provide for more precise and technical processes and procedures for determining that a flood event has commenced or is in progress.

(b) EFFECTIVE DATE OF POLICIES COVERING PROPERTIES AFFECTED BY FLOODING OF THE MISSOURI RIVER IN 2011.—

(1) ELIGIBLE COVERAGE.—For purposes of this subsection, the term “eligible coverage” means coverage under a new contract for flood insurance coverage under the National Flood Insurance Program, or a modification to coverage under an existing flood insurance contract, for property damaged by the flooding of the Missouri River that commenced on June 1, 2011, that was purchased or made during the period beginning May 1, 2011, and ending June 6, 2011.

(2) EFFECTIVE DATES.—Notwithstanding section 1306(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)), or any other provision of law, any eligible coverage shall—

(A) be deemed to take effect on the date that is 30 days after the date on which all obligations for the eligible coverage (including completion of the application and payment of any initial premiums owed) are satisfactorily completed; and

(B) cover damage to property occurring after the effective date described in subparagraph (A) that resulted from the flooding of the Missouri River that commenced on June 1, 2011, if the property did not suffer damage or loss as a result of such flooding before the effective date described in subparagraph (A).

(c) TIMELY NOTIFICATION.—Not later than 90 days after the date on which the Administrator submits the report required under subsection (a)(2), the Administrator shall, taking into consideration the results of the review under subsection (a)(1)(B), develop procedures for providing timely notification, to the extent practicable, to policyholders who have purchased flood insurance coverage under the National Flood Insurance Program within 30 days of a determination of a flood in progress and who may be affected by the flood of the determination and how the determination may affect their coverage.

SEC. 100228. CLARIFICATION OF RESIDENTIAL AND COMMERCIAL COVERAGE LIMITS.

Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (2)—

(A) by striking “in the case of any residential property” and inserting “in the case of any residential building designed for the occupancy of from 1 to 4 families”; and

(B) by striking “shall be made available to every insured upon renewal and every applicant for insurance so as to enable such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(i) of \$250,000” and inserting “shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i) of \$250,000”; and

(2) in paragraph (4)—

(A) by striking “in the case of any nonresidential property, including churches,” and inserting “in the case of any nonresidential building, including a church,”; and

(B) by striking “shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000 for each structure and \$500,000 for any contents related to each structure” and inserting “shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000, and coverage shall be made available up to a total of \$500,000 aggregate liability for contents owned by the building owner and \$500,000 aggregate liability for each unit within the building for contents owned by the tenant”.

SEC. 100229. LOCAL DATA REQUIREMENT.

(a) **IN GENERAL.**—Notwithstanding any other provision of this subtitle, no area or community participating in the National Flood Insurance Program that is or includes a community that is identified by the Administrator as Community Identification Number 360467 and impacted by the Jamaica Bay flooding source or identified by the Administrator as Community Identification Number 360495 may be or become designated as an area having special flood hazards for purposes of the National Flood Insurance Program, unless the designation is made on the basis of—

(1) flood hazard analyses of hydrologic, hydraulic, or coastal flood hazards that have been properly calibrated and validated, and are specific and directly relevant to the geographic area being studied; and

(2) ground elevation information of sufficient accuracy and precision to meet the guidelines of the Administration for accuracy at the 95 percent confidence level.

(b) **REMAPPING.**—

(1) **REMAPPING REQUIRED.**—If the Administrator determines that an area described in subsection (a) has been designated as an area of special flood hazard on the basis of information that does not comply with the requirements under subsection (a), the Administrator shall revise and update any National Flood Insurance Program rate map for the area—

(A) using information that complies with the requirements under subsection (a); and

(B) in accordance with the procedures established under section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104) for flood elevation determinations.

(2) **INTERIM PERIOD.**—A National Flood Insurance Program rate map in effect on the date of enactment of this Act for an area for which the Administrator has made a determination under paragraph (1) shall continue in effect with respect to the area during the period—

(A) beginning on the date of enactment of this Act; and

(B) ending on the date on which the Administrator determines that the requirements under section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104)

for flood elevation determinations have been met with respect to a revision and update under paragraph (1) of a National Flood Insurance Program rate map for the area.

(3) **DEADLINE.**—The Administrator shall issue a preliminary National Flood Insurance Program rate map resulting from a revision and update required under paragraph (1) not later than 1 year after the date of enactment of this Act.

(4) **RISK PREMIUM RATE CLARIFICATION.**—

(A) **IN GENERAL.**—If a revision and update required under paragraph (1) results in a reduction in the risk premium rate for a property in an area for which the Administrator has made a determination under paragraph (1), the Administrator shall—

(i) calculate the difference between the reduced risk premium rate and the risk premium rate paid by a policyholder with respect to the property during the period—

(I) beginning on the date on which the National Flood Insurance Program rate map in effect for the area on the date of enactment of this Act took effect; and

(II) ending on the date on which the revised or updated National Flood Insurance Program rate map takes effect; and

(ii) reimburse the policyholder an amount equal to such difference.

(B) **FUNDING.**—Notwithstanding section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), there shall be available to the Administrator from premiums deposited in the National Flood Insurance Fund pursuant to subsection (d) of such section 1310, of amounts not otherwise obligated, the amount necessary to carry out this paragraph.

(c) **TERMINATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), this section shall cease to have effect on the effective date of a National Flood Insurance Program rate map revised and updated under subsection (b)(1).

(2) **REIMBURSEMENTS.**—Subsection (b)(4) shall cease to have effect on the date on which the Administrator has made all reimbursements required under subsection (b)(4).

SEC. 100230. ELIGIBILITY FOR FLOOD INSURANCE FOR PERSONS RESIDING IN COMMUNITIES THAT HAVE MADE ADEQUATE PROGRESS ON THE RECONSTRUCTION OR IMPROVEMENT OF A FLOOD PROTECTION SYSTEM.

(a) **ELIGIBILITY FOR FLOOD INSURANCE COVERAGE.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law (including section 1307(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(e))), a person residing in a community that the Administrator determines has made adequate progress on the reconstruction or improvement of a flood protection system that will afford flood protection for a 100-year floodplain (without regard to the level of Federal funding of

or participation in the construction, reconstruction, or improvement), shall be eligible for flood insurance coverage under the National Flood Insurance Program—

(A) if the person resides in a community that is a participant in the National Flood Insurance Program; and

(B) at a risk premium rate that does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed.

(2) ADEQUATE PROGRESS.—

(A) RECONSTRUCTION OR IMPROVEMENT.—For purposes of paragraph (1), the Administrator shall determine that a community has made adequate progress on the reconstruction or improvement of a flood protection system if—

(i) 100 percent of the project cost has been authorized;

(ii) not less than 60 percent of the project cost has been secured or appropriated;

(iii) not less than 50 percent of the flood protection system has been assessed as being without deficiencies; and

(iv) the reconstruction or improvement has a project schedule that does not exceed 5 years, beginning on the date on which the reconstruction or construction of the improvement commences.

(B) CONSIDERATIONS.—In determining whether a flood protection system has been assessed as being without deficiencies, the Administrator shall consider the requirements under section 65.10 of chapter 44, Code of Federal Regulations, or any successor thereto.

(C) DATE OF COMMENCEMENT.—For purposes of subparagraph (A)(iv) of this paragraph and subsection (b)(2)(B), the date of commencement of the reconstruction or improvement of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act shall be deemed to be the date on which the owner of the flood protection system submits a request under paragraph (3).

(3) REQUEST FOR DETERMINATION.—The owner of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act may submit to the Administrator a request for a determination under paragraph (2) that the community in which the flood protection system is located has made adequate progress on the reconstruction or improvement of the flood protection system.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the Administrator from making a determination under paragraph (2) for any community in which a flood protection system is not undergoing reconstruction or improvement on the date of enactment of this Act.

(b) TERMINATION OF ELIGIBILITY.—

(1) ADEQUATE CONTINUING PROGRESS.—The Administrator shall issue rules to establish a method of determining whether a community has made adequate continuing progress on the reconstruction or improvement of a flood protection system that includes—

(A) a requirement that the Administrator shall—

(i) consult with the owner of the flood protection system—

(I) 6 months after the date of a determination under subsection (a);

(II) 18 months after the date of a determination under subsection (a); and

(III) 36 months after the date of a determination under subsection (a); and

(ii) after each consultation under clause (i), determine whether the reconstruction or improvement is reasonably likely to be completed in accordance with the project schedule described in subsection (a)(2)(A)(iv); and

(B) a requirement that, if the Administrator makes a determination under subparagraph (A)(ii) that reconstruction or improvement is not reasonably likely to be completed in accordance with the project schedule, the Administrator shall—

(i) not later than 30 days after the date of the determination, notify the owner of the flood protection system of the determination and provide the rationale and evidence for the determination; and

(ii) provide the owner of the flood protection system the opportunity to appeal the determination.

(2) TERMINATION.—The Administrator shall terminate the eligibility for flood insurance coverage under subsection (a) for persons residing in a community with respect to which the Administrator made a determination under subsection (a) if—

(A) the Administrator determines that the community has not made adequate continuing progress; or

(B) on the date that is 5 years after the date on which the reconstruction or construction of the improvement commences, the project has not been completed.

(3) WAIVER.—A person whose eligibility would otherwise be terminated under paragraph (2)(B) shall continue to be eligible to purchase flood insurance coverage described in subsection (a) if the Administrator determines—

(A) the community has made adequate continuing progress on the reconstruction or improvement of a flood protection system; and

(B) there is a reasonable expectation that the reconstruction or improvement of the flood protection system will be completed not later than 1 year after the date of the determination under this paragraph.

(4) RISK PREMIUM RATE.—If the Administrator terminates the eligibility of persons residing in a community to purchase flood insurance coverage described in subsection (a), the Administrator shall establish an appropriate risk premium rate for flood insurance coverage under the National Flood Insurance Program for persons residing in the community that purchased flood insurance coverage before the date on which the termination of eligibility takes effect, taking into consideration the then-current state of the flood protection system.

(c) ADDITIONAL AUTHORITY.—

(1) ADDITIONAL AUTHORITY.—Notwithstanding subsection (a), in exceptional and exigent circumstances, the Administrator

may, in the Administrator's sole discretion, determine that a person residing in a community, which is a participant in the National Flood Insurance Program, that has begun reconstruction or improvement of a flood protection system that will afford flood protection for a 100-year floodplain (without regard to the level of Federal funding of or participation in the reconstruction or improvement) shall be eligible for flood insurance coverage under the National Flood Insurance Program at a risk premium rate that does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed, provided—

(A) the community makes a written request for the determination setting forth the exceptional and exigent circumstances, including why the community cannot meet the criteria for adequate progress set forth in under subsection (a)(2)(A) and why immediate relief is necessary;

(B) the Administrator submits a written report setting forth findings of the exceptional and exigent circumstances on which the Administrator based an affirmative determination to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives not later than 15 days before making the determination; and

(C) the eligibility for flood insurance coverage at a risk premium rate determined under this subsection terminates no later than 1 year after the date on which the Administrator makes the determination.

(2) LIMITATION.—Upon termination of eligibility under paragraph (1)(C), a community may submit another request pursuant to paragraph (1)(A). The Administrator may make no more than two determinations under paragraph (1) with respect to persons residing within any single requesting community.

(3) TERMINATION.—The authority provided under paragraphs (1) and (2) shall terminate two years after the enactment of this Act.

SEC. 100231. STUDIES AND REPORTS.

(a) REPORT ON IMPROVING THE NATIONAL FLOOD INSURANCE PROGRAM.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on—

(1) the number of flood insurance policy holders currently insuring—

(A) a residential structure up to the maximum available coverage amount, as established in section 61.6 of title 44, Code of Federal Regulations, of—

- (i) \$250,000 for the structure; and
- (ii) \$100,000 for the contents of such structure;

or

(B) a commercial structure up to the maximum available coverage amount, as established in section 61.6 of title 44, Code of Federal Regulations, of \$500,000;

(2) the increased losses the National Flood Insurance Program would have sustained during the 2004 and 2005 hurricane

season if the National Flood Insurance Program had insured all policyholders up to the maximum conforming loan limit for fiscal year 2006 of \$417,000, as established under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2));

(3) the availability in the private marketplace of flood insurance coverage in amounts that exceed the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations; and

(4) what effect, if any—

(A) raising the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations, would have on the ability of private insurers to continue providing flood insurance coverage; and

(B) reducing the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations, would have on the ability of private insurers to provide sufficient flood insurance coverage to effectively replace the current level of flood insurance coverage being provided under the National Flood Insurance Program.

(b) REPORT OF THE ADMINISTRATOR ON ACTIVITIES UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—

(1) IN GENERAL.—The Administrator shall, on an annual basis, submit a full report on the operations, activities, budget, receipts, and expenditures of the National Flood Insurance Program for the preceding 12-month period to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) TIMING.—Each report required under paragraph (1) shall be submitted to the committees described in paragraph (1) not later than 3 months following the end of each fiscal year.

(3) CONTENTS.—Each report required under paragraph (1) shall include—

(A) the current financial condition and income statement of the National Flood Insurance Fund established under section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), including—

- (i) premiums paid into such Fund;
- (ii) policy claims against such Fund; and
- (iii) expenses in administering such Fund;

(B) the number and face value of all policies issued under the National Flood Insurance Program that are in force;

(C) a description and summary of the losses attributable to repetitive loss structures;

(D) a description and summary of all losses incurred by the National Flood Insurance Program due to—

- (i) hurricane related damage; and
- (ii) nonhurricane related damage;

(E) the amounts made available by the Administrator for mitigation assistance under section 1366(c)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(c)(4)), as so redesignated by this Act, for the purchase of properties substantially damaged by flood for that fiscal year, and the actual number of flood damaged properties

purchased and the total cost expended to purchase such properties;

(F) the estimate of the Administrator as to the average historical loss year, and the basis for that estimate;

(G) the estimate of the Administrator as to the maximum amount of claims that the National Flood Insurance Program would have to expend in the event of a catastrophic year;

(H) the average—

(i) amount of insurance carried per flood insurance policy;

(ii) premium per flood insurance policy; and

(iii) loss per flood insurance policy; and

(I) the number of claims involving damages in excess of the maximum amount of flood insurance available under the National Flood Insurance Program and the sum of the amount of all damages in excess of such amount.

(c) GAO STUDY ON PRE-FIRM STRUCTURES.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on the—

(1) composition of the remaining pre-FIRM structures that are explicitly receiving discounted premium rates under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014), including the historical basis for the receipt of such subsidy and the extent to which pre-FIRM structures are currently owned by the same owners of the property at the time of the original National Flood Insurance Program rate map;

(2) number and fair market value of such structures;

(3) respective income level of the owners of such structures;

(4) number of times each such structure has been sold since 1968, including specific dates, sales price, and any other information the Secretary determines appropriate;

(5) total losses incurred by such structures since the establishment of the National Flood Insurance Program compared to the total losses incurred by all structures that are charged a nondiscounted premium rate;

(6) total cost of foregone premiums since the establishment of the National Flood Insurance Program, as a result of the subsidies provided to such structures;

(7) annual cost as a result of the subsidies provided to such structures;

(8) the premium income collected and the losses incurred by the National Flood Insurance Program as a result of such explicitly subsidized structures compared to the premium income collected and the losses incurred by such Program as a result of structures that are charged a nondiscounted premium rate, on a State-by-State basis; and

(9) the options for eliminating the subsidy to such structures.

(d) GAO REVIEW OF FEMA CONTRACTORS.—The Comptroller General of the United States, in conjunction with the Office of the Inspector General of the Department of Homeland Security, shall—

(1) conduct a review of the 3 largest contractors the Administrator uses in administering the National Flood Insurance Program; and

(2) not later than 18 months after the date of enactment of this Act, submit a report on the findings of such review to the Administrator, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(e) STUDY AND REPORT ON GRADUATED RISK.—

(1) STUDY.—

(A) STUDY REQUIRED.—The Administrator shall enter into a contract under which the National Academy of Sciences shall conduct a study exploring methods for understanding graduated risk behind levees and the associated land development, insurance, and risk communication dimensions.

(B) CONTENTS OF STUDY.—The study under this paragraph shall—

(i) research, review, and recommend current best practices for estimating direct annualized flood losses behind levees for residential and commercial structures;

(ii) rank each best practice recommended under clause (i) based on the best value, balancing cost, scientific integrity, and the inherent uncertainties associated with all aspects of the loss estimate, including geotechnical engineering, flood frequency estimates, economic value, and direct damages;

(iii) research, review, and identify current best floodplain management and land use practices behind levees that effectively balance social, economic, and environmental considerations as part of an overall flood risk management strategy;

(iv) identify areas in which the best floodplain management and land use practices described in clause (iii) have proven effective and recommend methods and processes by which such practices could be applied more broadly across the United States, given the variety of different flood risks, State and local legal frameworks, and evolving judicial opinions;

(v) research, review, and identify a variety of flood insurance pricing options for flood hazards behind levees that are actuarially sound and based on the flood risk data developed using the 3 best practices recommended under clause (i) that have the best value as determined under clause (ii);

(vi) evaluate and recommend methods to reduce insurance costs through creative arrangements between insureds and insurers while keeping a clear accounting of how much financial risk is being borne by various parties such that the entire risk is accounted for, including establishment of explicit limits on disaster aid or other assistance in the event of a flood; and

(vii) taking into consideration the recommendations under clauses (i) through (iii), recommend approaches to communicate the associated risks to

community officials, homeowners, and other residents of communities.

(2) REPORT.—The contract under paragraph (1)(A) shall provide that not later than 12 months after the date of enactment of this Act, the National Academy of Sciences shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives a report on the study under paragraph (1) that includes the information and recommendations required under paragraph (1).

SEC. 100232. REINSURANCE.

(a) FEMA AND GAO REPORTS ON PRIVATIZATION.—Not later than 18 months after the date of enactment of this Act, the Administrator and the Comptroller General of the United States shall each—

(1) conduct a separate study to assess a broad range of options, methods, and strategies for privatizing the National Flood Insurance Program; and

(2) submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate with recommendations for the best manner to accomplish the privatization described in paragraph (1).

(b) PRIVATE RISK-MANAGEMENT INITIATIVES.—The Administrator may carry out such private risk-management initiatives as are otherwise authorized under applicable law, as the Administrator considers appropriate to determine the capacity of private insurers, reinsurers, and financial markets to assist communities, on a voluntary basis only, in managing the full range of financial risks associated with flooding.

(c) REINSURANCE ASSESSMENT.—

(1) PRIVATE MARKET PRICING ASSESSMENT.—Not later than 12 months after the date of enactment of this Act, the Administrator shall submit to Congress a report that—

(A) assesses the capacity of the private reinsurance, capital, and financial markets to assist communities, on a voluntary basis, in managing the full range of financial risks associated with flooding by requesting proposals to assume a portion of the insurance risk of the National Flood Insurance Program;

(B) describes any responses to the request for proposals under subparagraph (A);

(C) assesses whether the rates and terms contained in any proposals received by the Administrator are—

(i) reasonable and appropriate; and

(ii) in an amount sufficient to maintain the ability of the National Flood Insurance Program to pay claims;

(D) describes the extent to which carrying out the proposals received by the Administrator would minimize the likelihood that the Administrator would use the borrowing authority under section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016);

(E) describes fluctuations in historical reinsurance rates; and

(F) includes an economic cost-benefit analysis of the impact on the National Flood Insurance Program if the Administrator were to exercise the authority under section 1335(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4055(a)(2)), as added by this section, to secure reinsurance of coverage provided by the National Flood Insurance Program from the private market.

(2) PROTOCOL FOR RELEASE OF DATA.—The Administrator shall develop a protocol, including adequate privacy protections, to provide for the release of data sufficient to conduct the assessment required under paragraph (1).

(d) REINSURANCE.—The National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is amended—

(1) in section 1331(a)(2) (42 U.S.C. 4051(a)(2)), by inserting “, including as reinsurance of coverage provided by the flood insurance program” before “, on such terms”;

(2) in section 1332(c)(2) (42 U.S.C. 4052(c)(2)), by inserting “or reinsurance” after “flood insurance coverage”;

(3) in section 1335(a) (42 U.S.C. 4055(a))—

(A) by striking “The Director” and inserting the following:

“(1) IN GENERAL.—The Administrator”; and

(B) by adding at the end the following:

“(2) PRIVATE REINSURANCE.—The Administrator is authorized to secure reinsurance of coverage provided by the flood insurance program from the private market at rates and on terms determined by the Administrator to be reasonable and appropriate, in an amount sufficient to maintain the ability of the program to pay claims.”;

(4) in section 1346(a) (42 U.S.C. 4082(a))—

(A) in the matter preceding paragraph (1), by inserting after “for the purpose of” the following: “securing reinsurance of insurance coverage provided by the program or for the purpose of”;

(B) in paragraph (1)—

(i) by striking “estimating” and inserting “Estimating”; and

(ii) by striking the semicolon at the end and inserting a period;

(C) in paragraph (2)—

(i) by striking “receiving” and inserting “Receiving”; and

(ii) by striking the semicolon at the end and inserting a period;

(D) in paragraph (3)—

(i) by striking “making” and inserting “Making”;

and

(ii) by striking “; and” and inserting a period;

(E) by redesignating paragraph (4) as paragraph (5);

(F) in paragraph (5), as so redesignated, by striking “otherwise” and inserting “Otherwise”; and

(G) by inserting after paragraph (3) the following new paragraph:

“(4) Placing reinsurance coverage on insurance provided by such program.”; and

(5) in section 1370(a)(3) (42 U.S.C. 4121(a)(3)), by striking “include any” and all that follows and inserting the following:

“include any organization or person that is authorized to engage in the business of insurance under the laws of any State, subject to the reporting requirements of the Securities Exchange Act of 1934 pursuant to section 13(a) or 15(d) of such Act (15 U.S.C. 78m(a) and 78o(d)), or authorized by the Administrator to assume reinsurance on risks insured by the flood insurance program;”

(e) ASSESSMENT OF CLAIMS-PAYING ABILITY.—

(1) ASSESSMENT.—

(A) ASSESSMENT REQUIRED.—

(i) IN GENERAL.—Not later than September 30 of each year, the Administrator shall conduct an assessment of the ability of the National Flood Insurance Program to pay claims.

(ii) PRIVATE MARKET REINSURANCE.—The assessment under this paragraph for any year in which the Administrator exercises the authority under section 1335(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4055(a)(2)), as added by this section, to secure reinsurance of coverage provided by the National Flood Insurance Program from the private market shall include information relating the use of private sector reinsurance and reinsurance equivalents by the Administrator, whether or not the Administrator used the borrowing authority under section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016).

(iii) FIRST ASSESSMENT.—The Administrator shall conduct the first assessment required under this paragraph not later than September 30, 2012.

(B) CONSIDERATIONS.—In conducting an assessment under subparagraph (A), the Administrator shall take into consideration regional concentrations of coverage written by the National Flood Insurance Program, peak flood zones, and relevant mitigation measures.

(2) ANNUAL REPORT OF THE ADMINISTRATOR OF ACTIVITIES UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—The Administrator shall—

(A) include the results of each assessment in the report required under section 100231(b); and

(B) not later than 30 days after the date on which the Administrator completes an assessment required under paragraph (1), make the results of the assessment available to the public.

SEC. 100233. GAO STUDY ON BUSINESS INTERRUPTION AND ADDITIONAL LIVING EXPENSES COVERAGES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study concerning—

(1) the availability of additional living expenses and business interruption coverage in the private marketplace for flood insurance;

(2) the feasibility of allowing the National Flood Insurance Program to offer such coverage at the option of the consumer;

(3) the estimated cost to consumers if the National Flood Insurance Program priced such optional coverage at true actuarial rates;

(4) the impact such optional coverage would have on consumer participation in the National Flood Insurance Program; and

(5) the fiscal impact such optional coverage would have upon the National Flood Insurance Fund if such optional coverage were included in the National Flood Insurance Program, as described in paragraph (2), at the price described in paragraph (3).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General 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 the results of the study under subsection (a).

SEC. 100234. POLICY DISCLOSURES.

(a) IN GENERAL.—Notwithstanding any other provision of law, in addition to any other disclosures that may be required, each policy under the National Flood Insurance Program shall state all conditions, exclusions, and other limitations pertaining to coverage under the subject policy, regardless of the underlying insurance product, in plain English, in boldface type, and in a font size that is twice the size of the text of the body of the policy.

(b) VIOLATIONS.—The Administrator may impose a civil penalty of not more than \$50,000 on any person that fails to comply with subsection (a).

SEC. 100235. REPORT ON INCLUSION OF BUILDING CODES IN FLOODPLAIN MANAGEMENT CRITERIA.

Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the impact, effectiveness, and feasibility of amending section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) to include widely used and nationally recognized building codes as part of the floodplain management criteria developed under such section, and shall determine—

(1) the regulatory, financial, and economic impacts of such a building code requirement on homeowners, States and local communities, local land use policies, and the Federal Emergency Management Agency;

(2) the resources required of State and local communities to administer and enforce such a building code requirement;

(3) the effectiveness of such a building code requirement in reducing flood-related damage to buildings and contents;

(4) the impact of such a building code requirement on the actuarial soundness of the National Flood Insurance Program;

(5) the effectiveness of nationally recognized codes in allowing innovative materials and systems for flood-resistant construction;

(6) the feasibility and effectiveness of providing an incentive in lower premium rates for flood insurance coverage under such Act for structures meeting whichever of such widely used and nationally recognized building codes or any applicable local building codes provides greater protection from flood damage;

(7) the impact of such a building code requirement on rural communities with different building code challenges than urban communities; and

(8) the impact of such a building code requirement on Indian reservations.

SEC. 100236. STUDY OF PARTICIPATION AND AFFORDABILITY FOR CERTAIN POLICYHOLDERS.

(a) **FEMA STUDY.**—The Administrator shall conduct a study of—

(1) methods to encourage and maintain participation in the National Flood Insurance Program;

(2) methods to educate consumers about the National Flood Insurance Program and the flood risk associated with their property;

(3) methods for establishing an affordability framework for the National Flood Insurance Program, including methods to aid individuals to afford risk-based premiums under the National Flood Insurance Program through targeted assistance rather than generally subsidized rates, including means-tested vouchers; and

(4) the implications for the National Flood Insurance Program and the Federal budget of using each such method.

(b) **NATIONAL ACADEMY OF SCIENCES ECONOMIC ANALYSIS.**—To inform the Administrator in the conduct of the study under subsection (a), the Administrator shall enter into a contract under which the National Academy of Sciences, in consultation with the Comptroller General of the United States, shall conduct and submit to the Administrator an economic analysis of the costs and benefits to the Federal Government of a flood insurance program with full risk-based premiums, combined with means-tested Federal assistance to aid individuals who cannot afford coverage, through an insurance voucher program. The analysis shall compare the costs of a program of risk-based rates and means-tested assistance to the current system of subsidized flood insurance rates and federally funded disaster relief for people without coverage.

(c) **REPORT.**—Not later than 270 days after the date of enactment of this Act, 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 that contains the results of the study and analysis under this section.

(d) **FUNDING.**—Notwithstanding section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), there shall be available to the Administrator from the National Flood Insurance Fund, of amounts not otherwise obligated, not more than \$750,000 to carry out this section.

SEC. 100237. STUDY AND REPORT CONCERNING THE PARTICIPATION OF INDIAN TRIBES AND MEMBERS OF INDIAN TRIBES IN THE NATIONAL FLOOD INSURANCE PROGRAM.

(a) **DEFINITION.**—In this section, the term “Indian tribe” has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) **FINDINGS.**—Congress finds that participation by Indian tribes in the National Flood Insurance Program is low. Only 45 of 565 Indian tribes participate in the National Flood Insurance Program.

(c) **STUDY.**—The Comptroller General of the United States, in coordination and consultation with Indian tribes and members of Indian tribes throughout the United States, shall carry out a study that examines—

(1) the factors contributing to the current rates of participation by Indian tribes and members of Indian tribes in the National Flood Insurance Program; and

(2) methods of encouraging participation by Indian tribes and members of Indian tribes in the National Flood Insurance Program.

(d) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report that—

(1) contains the results of the study carried out under subsection (c);

(2) describes the steps that the Administrator should take to increase awareness and encourage participation by Indian tribes and members of Indian tribes in the National Flood Insurance Program; and

(3) identifies any legislative changes that would encourage participation by Indian tribes and members of Indian tribes in the National Flood Insurance Program.

SEC. 100238. TECHNICAL CORRECTIONS.

(a) **FLOOD DISASTER PROTECTION ACT OF 1973.**—The Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 et seq.) is amended—

(1) by striking “Director” each place that term appears, except in section 102(f)(3) (42 U.S.C. 4012a(f)(3)), and inserting “Administrator”; and

(2) in section 201(b) (42 U.S.C. 4105(b)), by striking “Director’s” and inserting “Administrator’s”.

(b) **NATIONAL FLOOD INSURANCE ACT OF 1968.**—The National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is amended—

(1) by striking “Director” each place that term appears and inserting “Administrator”;

(2) in section 1363 (42 U.S.C. 4104), by striking “Director’s” each place that term appears and inserting “Administrator’s”; and

(3) in section 1370(a)(9) (42 U.S.C. 4121(a)(9)), by striking “the Office of Thrift Supervision,”.

(c) **FEDERAL FLOOD INSURANCE ACT OF 1956.**—Section 15(e) of the Federal Flood Insurance Act of 1956 (42 U.S.C. 2414(e)) is amended by striking “Director” each place that term appears and inserting “Administrator”.

SEC. 100239. USE OF PRIVATE INSURANCE TO SATISFY MANDATORY PURCHASE REQUIREMENT.

(a) **AMENDMENTS.**—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended—

(1) in paragraph (1)—

(A) by striking the period at the end and inserting “; and”;

(B) by striking “lending institutions not to make” and inserting “lending institutions—

“(A) not to make”; and

(C) by adding at the end the following:

“(B) to accept private flood insurance as satisfaction of the flood insurance coverage requirement under subparagraph (A) if the coverage provided by such private flood insurance meets the requirements for coverage under such subparagraph.”;

(2) in paragraph (2)—

(A) by striking “paragraph (1)” each place that term appears and inserting “paragraph (1)(A)”; and

(B) by inserting after the first sentence the following: “Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence.”;

(3) in paragraph (3), in the matter following subparagraph (B), by striking “paragraph (1).” and inserting “paragraph (1)(A). The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under paragraph (1)(A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such paragraph and any requirements established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, respectively, relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation will accept private flood insurance.”; and

(4) by adding at the end the following:

“(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to supersede or limit the authority of a Federal entity for lending regulation, the Federal Housing Finance Agency, a Federal agency lender, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation to establish requirements relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the entity or agency will accept private flood insurance.

“(6) NOTICE.—

“(A) IN GENERAL.—Each lender shall disclose to a borrower that is subject to this subsection that—

“(i) flood insurance is available from private insurance companies that issue standard flood insurance policies on behalf of the national flood insurance program or directly from the national flood insurance program;

“(ii) flood insurance that provides the same level of coverage as a standard flood insurance policy under the national flood insurance program may be available from a private insurance company that issues policies on behalf of the company; and

“(iii) the borrower is encouraged to compare the flood insurance coverage, deductibles, exclusions, conditions and premiums associated with flood insurance policies issued on behalf of the national flood insurance

program and policies issued on behalf of private insurance companies and to direct inquiries regarding the availability, cost, and comparisons of flood insurance coverage to an insurance agent.

“(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting or otherwise limiting the authority of a Federal entity for lending regulation to approve any disclosure made by a regulated lending institution for purposes of complying with subparagraph (A).

“(7) PRIVATE FLOOD INSURANCE DEFINED.—In this subsection, the term ‘private flood insurance’ means an insurance policy that—

“(A) is issued by an insurance company that is—

“(i) licensed, admitted, or otherwise approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located, by the insurance regulator of that State or jurisdiction; or

“(ii) in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction where the property to be insured is located;

“(B) provides flood insurance coverage which is at least as broad as the coverage provided under a standard flood insurance policy under the national flood insurance program, including when considering deductibles, exclusions, and conditions offered by the insurer;

“(C) includes—

“(i) a requirement for the insurer to give 45 days’ written notice of cancellation or non-renewal of flood insurance coverage to—

“(I) the insured; and

“(II) the regulated lending institution or Federal agency lender;

“(ii) information about the availability of flood insurance coverage under the national flood insurance program;

“(iii) a mortgage interest clause similar to the clause contained in a standard flood insurance policy under the national flood insurance program; and

“(iv) a provision requiring an insured to file suit not later than 1 year after date of a written denial of all or part of a claim under the policy; and

“(D) contains cancellation provisions that are as restrictive as the provisions contained in a standard flood insurance policy under the national flood insurance program.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1364(a)(3)(C) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a(a)(3)(C)) is amended by inserting after “private insurers” the following: “, as required under section 102(b)(6) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(6))”.

SEC. 100240. LEVEES CONSTRUCTED ON CERTAIN PROPERTIES.

(a) **DEFINITION.**—In this section, the term “covered hazard mitigation land” means land that—

(1) was acquired and deed restricted under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) during the period beginning on January 1, 1999, and ending December 31, 2011;

(2) is located at—

- (A) 1029 Oak Street, Fargo, North Dakota;
- (B) 27 South Terrace, Fargo, North Dakota;
- (C) 1033 Oak Street, Fargo, North Dakota;
- (D) 308 Schnell Drive, Oxbow, North Dakota; or
- (E) 306 Schnell Drive, Oxbow, North Dakota; and

(3) is located in a community that—

(A) is participating in the National Flood Insurance Program on the date on which a State, local, or tribal government submits an application requesting to construct a permanent flood risk reduction levee under subsection (b); and

(B) certifies to the Administrator and the Chief of Engineers that the community will continue to participate in the National Flood Insurance Program.

(b) **AUTHORITY.**—Notwithstanding any other prohibition on construction on property acquired with funding from the Federal Emergency Management Agency for conversion to open space purposes, the Administrator shall allow the construction of a permanent flood risk reduction levee by a State, local, or tribal government on covered hazard mitigation land if—

(1) the Administrator and the Chief of Engineers make a determination that—

(A) construction of the proposed permanent flood risk reduction levee would more effectively mitigate against flooding risk than an open floodplain or other flood risk reduction measures;

(B) the proposed permanent flood risk reduction levee complies with Federal, State, and local requirements, including mitigation of adverse impacts and implementation of floodplain management requirements, which shall include an evaluation of whether the construction, operation, and maintenance of the proposed levee—

(i) would continue to meet best available industry standards and practices;

(ii) would be the most cost-effective measure to protect against the assessed flood risk; and

(iii) minimizes future costs to the Federal Government;

(C) the State, local, or tribal government seeking to construct the proposed permanent flood risk reduction levee has provided an adequate maintenance plan that documents the procedures the State, local, or tribal government will use to ensure that the stability, height, and overall integrity of the proposed levee and the structure and systems of the proposed levee are maintained, including—

(i) specifying the maintenance activities to be performed;

(ii) specifying the frequency with which maintenance activities will be performed;

- (iii) specifying the person responsible for performing each maintenance activity (by name or title);
 - (iv) detailing the plan for financing the maintenance of the levee; and
 - (v) documenting the ability of the State, local, or tribal government to finance the maintenance of the levee; and
- (2) before the commencement of construction, the State, local, or tribal government provides to the Administrator an amount—
- (A) equal to the Federal share of all project costs previously provided by the Administrator under the applicable program for each deed restricted parcel of the covered hazard mitigation land, which the Administrator shall deposit in the National Flood Insurance Fund; and
 - (B) that does not include any Federal funds.

(c) MAINTENANCE CERTIFICATION.—

(1) IN GENERAL.—A State, local, or tribal government that constructs a permanent flood risk reduction levee under subsection (b) shall submit to the Administrator and the Chief of Engineers an annual certification indicating whether the State, local, or tribal government is in compliance with the maintenance plan provided under subsection (b)(1)(C).

(2) REVIEW.—The Chief of Engineers shall review each certification submitted under paragraph (1) and determine whether the State, local, or tribal government has complied with the maintenance plan.

SEC. 100241. INSURANCE COVERAGE FOR PRIVATE PROPERTIES AFFECTED BY FLOODING FROM FEDERAL LANDS.

Section 1306(c)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(2)) is amended—

- (1) in subparagraph (A), by striking “or” at the end;
- (2) in subparagraph (B), by striking the period at the end and inserting “; or”; and
- (3) by adding at the end the following:

“(C) the initial purchase of flood insurance coverage for private property if—

“(i) the Administrator determines that the property is affected by flooding on Federal land that is a result of, or is exacerbated by, post-wildfire conditions, after consultation with an authorized employee of the Federal agency that has jurisdiction of the land on which the wildfire that caused the post-wildfire conditions occurred; and

“(ii) the flood insurance coverage was purchased not later than 60 days after the fire containment date, as determined by the appropriate Federal employee, relating to the wildfire that caused the post-wildfire conditions described in clause (i).”.

SEC. 100242. PERMISSIBLE LAND USE UNDER FEDERAL FLOOD INSURANCE PLAN.

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by adding at the end the following:

“SEC. 1325. TREATMENT OF SWIMMING POOL ENCLOSURES OUTSIDE OF HURRICANE SEASON.

“(a) IN GENERAL.—Notwithstanding any other provision of law, including the adequate land use and control measures developed pursuant to section 1361 and applicable to non-one- and two-family structures located within coastal areas, as identified by the Administrator, the following may be permitted:

“(1) Nonsupporting breakaway walls in the space below the lowest elevated floor of a building, if the space is used solely for a swimming pool between November 30 and June 1 of any year, in an area designated as Zone V on a flood insurance rate map.

“(2) Openings in walls in the space below the lowest elevated floor of a building, if the space is used solely for a swimming pool between November 30 and June 1 of any year, in an area designated as Zone A on a flood insurance rate map.

“(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to alter the terms and conditions of eligibility and insurability of coverage for a building under the standard flood insurance policy under the national flood insurance program.”.

SEC. 100243. CDBG ELIGIBILITY FOR FLOOD INSURANCE OUTREACH ACTIVITIES AND COMMUNITY BUILDING CODE ADMINISTRATION GRANTS.

(a) AMENDMENTS.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) by redesignating paragraph (25) as paragraph (26);

(2) by redesignating the second paragraph designated as paragraph (24) (relating to tornado-safe shelters) as paragraph (25);

(3) in paragraph (24) (relating to homeownership among persons with low and moderate income), by striking “and” at the end;

(4) in paragraph (25), as so redesignated, by striking “and” at the end;

(5) in paragraph (26), as so redesignated, by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following new paragraphs:

“(27) supplementing existing State or local funding for administration of building code enforcement by local building code enforcement departments, including for increasing staffing, providing staff training, increasing staff competence and professional qualifications, and supporting individual certification or departmental accreditation, and for capital expenditures specifically dedicated to the administration of the building code enforcement department, except that, to be eligible to use amounts as provided in this paragraph—

“(A) a building code enforcement department shall provide matching, non-Federal funds to be used in conjunction with amounts used under this paragraph in an amount—

“(i) in the case of a building code enforcement department serving an area with a population of more than 50,000, equal to not less than 50 percent of the total amount of any funds made available under this title that are used under this paragraph;

“(ii) in the case of a building code enforcement department serving an area with a population of between 20,001 and 50,000, equal to not less than 25 percent of the total amount of any funds made available under this title that are used under this paragraph; and

“(iii) in the case of a building code enforcement department serving an area with a population of less than 20,000, equal to not less than 12.5 percent of the total amount of any funds made available under this title that are used under this paragraph,

except that the Secretary may waive the matching fund requirements under this subparagraph, in whole or in part, based upon the level of economic distress of the jurisdiction in which is located the local building code enforcement department that is using amounts for purposes under this paragraph, and shall waive such matching fund requirements in whole for any recipient jurisdiction that has dedicated all building code permitting fees to the conduct of local building code enforcement; and

“(B) any building code enforcement department using funds made available under this title for purposes under this paragraph shall empanel a code administration and enforcement team consisting of at least 1 full-time building code enforcement officer, a city planner, and a health planner or similar officer; and

“(28) provision of assistance to local governmental agencies responsible for floodplain management activities (including such agencies of Indians tribes, as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) in communities that participate in the national flood insurance program under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), only for carrying out outreach activities to encourage and facilitate the purchase of flood insurance protection under such Act by owners and renters of properties in such communities and to promote educational activities that increase awareness of flood risk reduction; except that—

“(A) amounts used as provided under this paragraph shall be used only for activities designed to—

“(i) identify owners and renters of properties in communities that participate in the national flood insurance program, including owners of residential and commercial properties;

“(ii) notify such owners and renters when their properties become included in, or when they are excluded from, an area having special flood hazards and the effect of such inclusion or exclusion on the applicability of the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) to such properties;

“(iii) educate such owners and renters regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;

“(iv) educate such owners and renters regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under this title for such properties and the contents of such properties;

“(v) encourage such owners and renters to maintain or acquire such coverage;

“(vi) notify such owners of where to obtain information regarding how to obtain such coverage, including a telephone number, mailing address, and Internet site of the Administrator of the Federal Emergency Management Agency (in this paragraph referred to as the ‘Administrator’) where such information is available; and

“(vii) educate local real estate agents in communities participating in the national flood insurance program regarding the program and the availability of coverage under the program for owners and renters of properties in such communities, and establish coordination and liaisons with such real estate agents to facilitate purchase of coverage under the National Flood Insurance Act of 1968 and increase awareness of flood risk reduction;

“(B) in any fiscal year, a local governmental agency may not use an amount under this paragraph that exceeds 3 times the amount that the agency certifies, as the Secretary, in consultation with the Administrator, shall require, that the agency will contribute from non-Federal funds to be used with such amounts used under this paragraph only for carrying out activities described in subparagraph (A); and for purposes of this subparagraph, the term ‘non-Federal funds’ includes State or local government agency amounts, in-kind contributions, any salary paid to staff to carry out the eligible activities of the local governmental agency involved, the value of the time and services contributed by volunteers to carry out such services (at a rate determined by the Secretary), and the value of any donated material or building and the value of any lease on a building;

“(C) a local governmental agency that uses amounts as provided under this paragraph may coordinate or contract with other agencies and entities having particular capacities, specialties, or experience with respect to certain populations or constituencies, including elderly or disabled families or persons, to carry out activities described in subparagraph (A) with respect to such populations or constituencies; and

“(D) each local government agency that uses amounts as provided under this paragraph shall submit a report to the Secretary and the Administrator, not later than 12 months after such amounts are first received, which shall include such information as the Secretary and the Administrator jointly consider appropriate to describe the activities conducted using such amounts and the effect of such activities on the retention or acquisition of flood insurance coverage.”.

(b) SUNSET.—Effective on the date that is 2 years after the date of enactment of this Act, section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

- (1) in paragraph (25), as so redesignated by subsection (a) of this subsection, by adding “and” at the end;
- (2) in paragraph (26), as so redesignated by subsection (a) of this subsection, by striking the semicolon at the end and inserting a period; and
- (3) by striking paragraphs (27) and (28), as added by subsection (a) of this subsection.

SEC. 100244. TERMINATION OF FORCE-PLACED INSURANCE.

(a) IN GENERAL.—Section 102(e) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(e)) is amended—

(1) in paragraph (2), by striking “purchasing the insurance” and inserting “purchasing the insurance, including premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

“(3) TERMINATION OF FORCE-PLACED INSURANCE.—Within 30 days of receipt by the lender or servicer of a confirmation of a borrower’s existing flood insurance coverage, the lender or servicer shall—

“(A) terminate any insurance purchased by the lender or servicer under paragraph (2); and

“(B) refund to the borrower all premiums paid by the borrower for any insurance purchased by the lender or servicer under paragraph (2) during any period during which the borrower’s flood insurance coverage and the insurance coverage purchased by the lender or servicer were each in effect, and any related fees charged to the borrower with respect to the insurance purchased by the lender or servicer during such period.

“(4) SUFFICIENCY OF DEMONSTRATION.—For purposes of confirming a borrower’s existing flood insurance coverage, a lender or servicer for a loan shall accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or agent.”.

SEC. 100245. FEMA AUTHORITY ON TRANSFER OF POLICIES.

Section 1345 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) is amended by adding at the end the following new subsection:

“(d) FEMA AUTHORITY ON TRANSFER OF POLICIES.—Notwithstanding any other provision of this title, the Administrator may, at the discretion of the Administrator, refuse to accept the transfer of the administration of policies for coverage under the flood insurance program under this title that are written and administered by any insurance company or other insurer, or any insurance agent or broker.”.

SEC. 100246. REIMBURSEMENT OF CERTAIN EXPENSES.

Section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104) is amended by striking subsection (f) and inserting the following:

“(f) REIMBURSEMENT OF CERTAIN EXPENSES.—When, incident to any appeal under subsection (b) or (c) of this section, 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 based on a scientific or technical error on the part of the Federal Emergency Management Agency, which is successful in whole or part, the Administrator shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. The amounts available for implementing this subsection shall not exceed \$250,000. The Administrator shall promulgate regulations to carry out this subsection.”.

SEC. 100247. FIO STUDY ON RISKS, HAZARDS, AND INSURANCE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the Federal Insurance Office shall conduct a study and 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 providing an assessment of the current state of the market for natural catastrophe insurance in the United States.

(b) FACTORS.—The study and report required under subsection (a) shall assess—

(1) the current condition of, as well as the outlook for, the availability and affordability of insurance for natural catastrophe perils in all regions of the United States;

(2) the current ability of States, communities, and individuals to mitigate their natural catastrophe risks, including the affordability and feasibility of such mitigation activities;

(3) the current state of catastrophic insurance and reinsurance markets and the current approaches in providing insurance protection to different sectors of the population of the United States;

(4) the current financial condition of State residual markets and catastrophe funds in high-risk regions, including the likelihood of insolvency following a natural catastrophe, the concentration of risks within such funds, the reliance on post-event assessments and State funding, and the adequacy of rates; and

(5) the current role of the Federal Government and State and local governments in providing incentives for feasible risk mitigation efforts and the cost of providing post-natural catastrophe aid in the absence of insurance.

(c) ADDITIONAL FACTORS.—The study and report required under subsection (a) shall also contain an assessment of current approaches to insuring natural catastrophe risks in the United States and such other information as the Director of the Federal Insurance Office determines necessary or appropriate.

(d) CONSULTATION.—In carrying out the study and report under subsection (a), the Director of the Federal Insurance Office shall consult with the National Academy of Sciences, State insurance regulators, consumer organizations, representatives of the insurance and reinsurance industry, policyholders, and other organizations and experts, as appropriate.

SEC. 100248. FLOOD PROTECTION IMPROVEMENTS CONSTRUCTED ON CERTAIN PROPERTIES.

(a) DEFINITION.—In this section, the term “covered hazard mitigation land” means land that—

(1) was acquired and deed restricted under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) during the period beginning on March 1, 2008, and ending on December 31, 2008;

(2) is located at—

- (A) 809 East Main Cross Street, Findlay, Ohio, 45840;
- (B) 801 East Main Cross Street, Findlay, Ohio, 45840;
- (C) 725 East Main Cross Street, Findlay, Ohio, 45840;

or

- (D) 631 East Main Cross Street, Findlay, Ohio, 45840;

and

(3) is located in a community that—

(A) is participating in the National Flood Insurance Program on the date on which a State, local, or tribal government submits an application requesting to construct a flood protection improvement under subsection (b); and

(B) certifies to the Administrator and the Chief of Engineers that the community will continue to participate in the National Flood Insurance Program.

(b) AUTHORITY.—Notwithstanding any other prohibition on construction on property acquired with funding from the Federal Emergency Management Agency for conversion to open space purposes, the Administrator shall allow the construction of a flood protection improvement by a State, local, or tribal government on covered hazard mitigation land if—

(1) the Administrator and the Chief of Engineers make a determination that—

(A) construction of the proposed flood protection improvement would more effectively mitigate against flooding risk than an open floodplain or other flood risk reduction measures;

(B) the proposed flood protection improvement complies with Federal, State, and local requirements, including mitigation of adverse impacts and implementation of floodplain management requirements, which shall include an evaluation of whether the construction, operation, and maintenance of the proposed flood protection improvement—

(i) would continue to meet best available industry standards and practices;

(ii) would be the most cost-effective measure to protect against the assessed flood risk; and

(iii) minimizes future costs to the Federal Government;

(C) the State, local, or tribal government seeking to construct the flood protection improvement has provided

an adequate maintenance plan that documents the procedures the State, local, or tribal government will use to ensure that the stability, height, and overall integrity of the proposed flood protection improvement and the structure and systems of the proposed flood protection improvement are maintained, including—

(i) specifying the maintenance activities to be performed;

(ii) specifying the frequency with which maintenance activities will be performed;

(iii) specifying the person responsible for performing each maintenance activity (by name or title);

(iv) detailing the plan for financing the maintenance of the flood protection improvement; and

(v) documenting the ability of the State, local, or tribal government to finance the maintenance of the flood protection improvement; and

(2) before the commencement of construction, the State, local, or tribal government provides to the Administrator an amount—

(A) equal to the Federal share of all project costs previously provided by the Administrator under the applicable program for each deed restricted parcel of the covered hazard mitigation land, which the Administrator shall deposit in the National Flood Insurance Fund; and

(B) that does not include any Federal funds.

(c) MAINTENANCE CERTIFICATION.—

(1) IN GENERAL.—A State, local, or tribal government that constructs a flood protection improvement under subsection (b) shall submit to the Administrator and the Chief of Engineers an annual certification indicating whether the State, local, or tribal government is in compliance with the maintenance plan provided under subsection (b)(1)(C).

(2) REVIEW.—The Chief of Engineers shall review each certification submitted under paragraph (1) and determine whether the State, local, or tribal government has complied with the maintenance plan.

SEC. 100249. NO CAUSE OF ACTION.

No cause of action shall exist and no claim may be brought against the United States for violation of any notification requirement imposed upon the United States by this subtitle or any amendment made by this subtitle.

Subtitle B—Alternative Loss Allocation

SEC. 100251. SHORT TITLE.

This subtitle may be cited as the “Consumer Option for an Alternative System to Allocate Losses Act of 2012” or the “COASTAL Act of 2012”.

SEC. 100252. ASSESSING AND MODELING NAMED STORMS OVER COASTAL STATES.

Subtitle C of title XII of the Omnibus Public Land Management Act of 2009 (33 U.S.C. 3601 et seq.) (also known as the “Integrated Coastal and Ocean Observation System Act of 2009”) is amended by adding at the end the following:

“SEC. 12312. ASSESSING AND MODELING NAMED STORMS OVER COASTAL STATES.

“(a) DEFINITIONS.—In this section:

“(1) COASTAL FORMULA.—The term ‘COASTAL Formula’ has the meaning given the term in section 1337(a) of the National Flood Insurance Act of 1968.

“(2) COASTAL STATE.—The term ‘coastal State’ has the meaning given the term ‘coastal state’ in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

“(3) COASTAL WATERS.—The term ‘coastal waters’ has the meaning given the term in such section.

“(4) COVERED DATA.—The term ‘covered data’ means, with respect to a named storm identified by the Administrator under subsection (b)(2)(A), empirical data that are—

“(A) collected before, during, or after such storm; and

“(B) necessary to determine magnitude and timing of wind speeds, rainfall, the barometric pressure, river flows, the extent, height, and timing of storm surge, topographic and bathymetric data, and other measures required to accurately model and assess damage from such storm.

“(5) INDETERMINATE LOSS.—The term ‘indeterminate loss’ has the meaning given the term in section 1337(a) of the National Flood Insurance Act of 1968.

“(6) NAMED STORM.—The term ‘named storm’ means any organized weather system with a defined surface circulation and maximum winds of at least 39 miles per hour which the National Hurricane Center of the United States National Weather Service names as a tropical storm or a hurricane.

“(7) NAMED STORM EVENT MODEL.—The term ‘Named Storm Event Model’ means the official meteorological and oceanographic computerized model, developed by the Administrator under subsection (b)(1)(A), which utilizes covered data to replicate the magnitude, timing, and spatial variations of winds, rainfall, and storm surges associated with named storms that threaten any portion of a coastal State.

“(8) PARTICIPANT.—The term ‘participant’ means a Federal, State, or private entity that chooses to cooperate with the Administrator in carrying out the provisions of this section by collecting, contributing, and maintaining covered data.

“(9) POST-STORM ASSESSMENT.—The term ‘post-storm assessment’ means a scientific assessment produced and certified by the Administrator to determine the magnitude, timing, and spatial variations of winds, rainfall, and storm surges associated with a specific named storm to be used in the COASTAL Formula.

“(10) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

“(b) NAMED STORM EVENT MODEL AND POST-STORM ASSESSMENT.—

“(1) ESTABLISHMENT OF NAMED STORM EVENT MODEL.—

“(A) IN GENERAL.—Not later than 540 days after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall develop by regulation the Named Storm Event Model.

“(B) ACCURACY.—The Named Storm Event Model shall be designed to generate post-storm assessments, as provided in paragraph (2), that have a degree of accuracy of not less than 90 percent for every indeterminate loss for which a post-storm assessment is utilized.

“(2) POST-STORM ASSESSMENT.—

“(A) IDENTIFICATION OF NAMED STORMS THREATENING COASTAL STATES.—After the establishment of the COASTAL Formula, the Administrator shall, in consultation with the Secretary of Homeland Security, identify named storms that may reasonably constitute a threat to any portion of a coastal State.

“(B) POST-STORM ASSESSMENT REQUIRED.—Upon identification of a named storm under subparagraph (A), the Administrator shall develop a post-storm assessment for such named storm using the Named Storm Event Model and covered data collected for such named storm pursuant to the protocol established under subsection (c)(1).

“(C) SUBMITTAL OF POST-STORM ASSESSMENT.—Not later than 90 days after an identification of a named storm is made under subparagraph (A), the Administrator shall submit to the Secretary of Homeland Security the post-storm assessment developed for such storm under subparagraph (B).

“(3) ACCURACY.—The Administrator shall ensure, to the greatest extent practicable, that each post-storm assessment developed under paragraph (2) has a degree of accuracy of not less than 90 percent.

“(4) CERTIFICATION.—For each post-storm assessment carried out under paragraph (2), the Administrator shall—

“(A) certify the degree of accuracy for such assessment, including specific reference to any segments or geographic areas for which the assessment is less than 90 percent accurate; and

“(B) report such certification to the Secretary of Homeland Security for the purposes of use with indeterminate loss claims under section 1337 of the National Flood Insurance Act of 1968.

“(5) FINALITY OF DETERMINATIONS.—A certification of the degree of accuracy of a post-storm assessment under this subsection by the Administrator shall be final and shall not be subject to judicial review.

“(6) AVAILABILITY.—The Administrator shall make available to the public the Named Storm Event Model and any post-storm assessment developed under this subsection.

“(c) ESTABLISHMENT OF A PROTOCOL FOR POST-STORM ASSESSMENT.—

“(1) IN GENERAL.—Not later than 540 days after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall establish a protocol, based on the plan submitted under subsection (d)(3), to collect and assemble all covered data required by the Administrator to produce post-storm assessments required by subsection (b), including assembling data collected by participants and stored in the database established under subsection (f) and from such other sources as the Administrator considers appropriate.

“(2) ACQUISITION OF SENSORS AND STRUCTURES.—If the Administrator is unable to use a public or private asset to obtain covered data as part of the protocol established under paragraph (1), the Administrator may acquire such sensors and structures for the placement of sensors as may be necessary to obtain such data.

“(3) USE OF FEDERAL ASSETS.—If the protocol requires placement of a sensor to develop assessments pursuant to subsection (b), the Administrator shall, to the extent practicable, use Federal assets for the placement of such sensors.

“(4) USE OF ACQUIRED STRUCTURES.—

“(A) IN GENERAL.—If the Administrator acquires a structure for the placement of a sensor for purposes of such protocol, the Administrator shall to the extent practical permit other public and private entities to place sensors on such structure to collect—

“(i) meteorological data;

“(ii) national security-related data;

“(iii) navigation-related data;

“(iv) hydrographic data; or

“(v) such other data as the Administrator considers appropriate.

“(B) RECEIPT OF CONSIDERATION.—The Administrator may receive consideration for the placement of a sensor on a structure under subparagraph (A).

“(C) IN-KIND CONSIDERATION.—Consideration received under subparagraph (B) may be received in-kind.

“(D) USE OF CONSIDERATION.—To the extent practicable, consideration received under subparagraph (B) shall be used for the maintenance of sensors used to collect covered data.

“(5) COORDINATED DEPLOYMENTS AND DATA COLLECTION PRACTICES.—The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, coordinate the deployment of sensors as part of the protocol established under paragraph (1) and related data collection carried out by Federal, State, academic, and private entities who choose to cooperate with the Administrator in carrying out this subsection.

“(6) PRIORITY ACQUISITION AND DEPLOYMENT.—The Administrator shall give priority in the acquisition for and deployment of sensors under the protocol required by paragraph (1) to areas of coastal States that have the highest risk of being harmed by named storms.

“(d) ASSESSMENT OF SYSTEMS AND EFFORTS TO COLLECT COVERED DATA.—

“(1) IDENTIFICATION OF SYSTEMS AND EFFORTS TO COLLECT COVERED DATA.—Not later than 180 days after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology—

“(A) carry out a survey to identify all Federal and State efforts and systems that are capable of collecting covered data; and

“(B) consult with private and academic sector entities to identify domestic private and academic systems that are capable of collecting covered data.

“(2) IDENTIFICATION OF GAPS.—The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology and individuals and entities consulted under subsection (e)(3), assess the systems identified under paragraph (1) and identify which systems meet the needs of the National Oceanic and Atmospheric Administration for the collection of covered data, including with respect to the accuracy requirement for post-storm assessment under subsection (b)(3).

“(3) PLAN.—Not later than 270 days after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, submit to Congress a plan for the collection of covered data necessary to develop the Named Storm Event Model and post-storm assessment required by subsection (b) that addresses any gaps identified in paragraph (2).

“(e) COORDINATION OF COVERED DATA COLLECTION AND MAINTENANCE BY PARTICIPANTS.—

“(1) IN GENERAL.—The Administrator shall, in consultation with the Office of the Federal Coordinator for Meteorology, coordinate the collection and maintenance of covered data by participants under this section—

“(A) to streamline the process of collecting covered data in accordance with the protocol established under subsection (c)(1); and

“(B) to maintain transparency of such process and the database established under subsection (f).

“(2) SHARING INFORMATION.—The Administrator shall establish a process for sharing among participants information relevant to collecting and using covered data for—

“(A) academic research;

“(B) private sector use;

“(C) public outreach; and

“(D) such other purposes as the Administrator considers appropriate.

“(3) CONSULTATION.—In carrying out paragraphs (1) and (2), the Administrator shall consult with the following:

“(A) The Commanding General of the Corps of Engineers.

“(B) The Administrator of the Federal Emergency Management Agency.

“(C) The Commandant of the Coast Guard.

“(D) The Director of the United States Geological Survey.

“(E) The Office of the Federal Coordinator for Meteorology.

“(F) The Director of the National Science Foundation.

“(G) The Administrator of the National Aeronautics and Space Administration.

“(H) Such public, private, and academic sector entities as the Administrator considers appropriate for purposes of carrying out the provisions of this section.

“(f) ESTABLISHMENT OF COASTAL WIND AND WATER EVENT DATABASE.—

“(1) IN GENERAL.—Not later than 1 year after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Administrator shall establish a database for the collection and compilation of covered data—

“(A) to support the protocol established under subsection (c)(1); and

“(B) for the purposes listed in subsection (e)(2).

“(2) DESIGNATION.—The database established under paragraph (1) shall be known as the ‘Coastal Wind and Water Event Database’.

“(g) COMPTROLLER GENERAL STUDY.—Not later than 1 year after the date of the enactment of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, the Comptroller General of the United States shall—

“(1) complete an audit of Federal efforts to collect covered data for purposes of the Consumer Option for an Alternative System to Allocate Losses Act of 2012, which audit shall—

“(A) examine duplicated Federal efforts to collect covered data; and

“(B) determine the cost effectiveness of such efforts;

and

“(2) submit to the Committee on Banking, Housing, and Urban Affairs and the Commerce, Science, and Transportation of the Senate and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives a report on the findings of the Comptroller General with respect to the audit completed under paragraph (1).”.

SEC. 100253. ALTERNATIVE LOSS ALLOCATION SYSTEM FOR INDETERMINATE CLAIMS.

Part A of chapter II of the National Flood Insurance Act of 1968 (42 U.S.C. 4051 et seq.) is amended by adding at the end the following:

“SEC. 1337. ALTERNATIVE LOSS ALLOCATION SYSTEM FOR INDETERMINATE CLAIMS.

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.

“(2) COASTAL FORMULA.—The term ‘COASTAL Formula’ means the formula established under subsection (b).

“(3) COASTAL STATE.—The term ‘coastal State’ has the meaning given the term ‘coastal state’ in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

“(4) INDETERMINATE LOSS.—

“(A) IN GENERAL.—The term ‘indeterminate loss’ means, as determined by an insurance claims adjuster certified under the national flood insurance program and in consultation with an engineer as appropriate, a loss resulting from physical damage to, or loss of, property located in any coastal State arising from the combined perils of flood and wind associated with a named storm.

“(B) REQUIREMENTS.—An insurance claims adjuster certified under the national flood insurance program shall only determine that a loss is an indeterminate loss if the claims adjuster determines that—

“(i) no material remnant of physical buildings or man-made structures remain except building foundations for the specific property for which the claim is made; and

“(ii) there is insufficient or no tangible evidence created, yielded, or otherwise left behind of the specific property for which the claim is made as a result of the named storm.

“(5) NAMED STORM.—The term ‘named storm’ means any organized weather system with a defined surface circulation and maximum winds of not less than 39 miles per hour which the National Hurricane Center of the United States National Weather Service names as a tropical storm or a hurricane.

“(6) POST-STORM ASSESSMENT.—The term ‘post-storm assessment’ means the post-storm assessment developed under section 12312(b) of the Omnibus Public Land Management Act of 2009.

“(7) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

“(8) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(9) STANDARD INSURANCE POLICY.—The term ‘standard insurance policy’ means any insurance policy issued under the national flood insurance program that covers loss or damage to property resulting from water peril.

“(10) PROPERTY.—The term ‘property’ means real or personal property that is insured under a standard insurance policy for loss or damage to structure or contents.

“(11) UNDER SECRETARY.—The term ‘Under Secretary’ means the Under Secretary of Commerce for Oceans and Atmosphere, in the Under Secretary’s capacity as Administrator of the National Oceanic and Atmospheric Administration.

“(b) ESTABLISHMENT OF FLOOD LOSS ALLOCATION FORMULA FOR INDETERMINATE CLAIMS.—

“(1) IN GENERAL.—Not later than 180 days after the date on which the protocol is established under section 12312(c)(1) of the Omnibus Public Land Management Act of 2009, the Secretary, acting through the Administrator and in consultation with the Under Secretary, shall establish by rule a standard formula to determine and allocate wind losses and flood losses for claims involving indeterminate losses.

“(2) CONTENTS.—The standard formula established under paragraph (1) shall—

“(A) incorporate data available from the Coastal Wind and Water Event Database established under section 12312(f) of the Omnibus Public Land Management Act of 2009;

“(B) use relevant data provided on the National Flood Insurance Program Elevation Certificate for each indeterminate loss for which the formula is used;

“(C) consider any sufficient and credible evidence, approved by the Administrator, of the pre-event condition of a specific property, including the findings of any policyholder or insurance claims adjuster in connection with the indeterminate loss to that specific property;

“(D) include other measures, as the Administrator considers appropriate, required to determine and allocate by mathematical formula the property damage caused by flood or storm surge associated with a named storm; and

“(E) subject to paragraph (3), for each indeterminate loss, use the post-storm assessment to allocate water damage (flood or storm surge) associated with a named storm.

“(3) DEGREE OF ACCURACY REQUIRED.—The standard formula established under paragraph (1) shall specify that the Administrator may only use the post-storm assessment for purposes of the formula if the Under Secretary certifies that the post-storm assessment has a degree of accuracy of not less than 90 percent in connection with the specific indeterminate loss for which the assessment and formula are used.

“(c) AUTHORIZED USE OF POST-STORM ASSESSMENT AND COASTAL FORMULA.—

“(1) IN GENERAL.—Subject to paragraph (3), the Administrator may use the post-storm assessment and the COASTAL Formula to—

“(A) review flood loss payments for indeterminate losses, including as part of the quality assurance reinspection program of the Federal Emergency Management Agency for claims under the national flood insurance program and any other process approved by the Administrator to review and validate payments under the national flood insurance program for indeterminate losses following a named storm; and

“(B) assist the national flood insurance program to—

“(i) properly cover qualified flood loss for claims for indeterminate losses; and

“(ii) avoid paying for any loss or damage to property caused by any peril (including wind), other than flood or storm surge, that is not covered under a standard policy under the national flood insurance program.

“(2) FEDERAL DISASTER DECLARATION.—Subject to paragraph (3), in order to expedite claims and reduce costs to the national flood insurance program, following any major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) relating to a named storm in a coastal State, the Administrator may use the COASTAL Formula to determine and pay for any flood loss covered under a standard insurance policy under the national flood insurance program, if the loss is an indeterminate loss.

“(3) NATIONAL ACADEMY OF SCIENCES EVALUATION.—

“(A) EVALUATION REQUIRED.—

“(i) EVALUATION.—Upon the issuance of the rule establishing the COASTAL Formula, and each time the Administrator modifies the COASTAL Formula, the National Academy of Sciences shall—

“(I) evaluate the expected financial impact on the national flood insurance program of the use of the COASTAL Formula as so established or modified; and

“(II) evaluate the validity of the scientific assumptions upon which the formula is based and

determine whether the COASTAL Formula can achieve a degree of accuracy of not less than 90 percent in allocating flood losses for indeterminate losses.

“(ii) REPORT.—The National Academy of Sciences shall submit a report containing the results of each evaluation under clause (i) to the Administrator, the Committee on Banking, Housing, and Urban Affairs and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives.

“(B) EFFECTIVE DATE AND APPLICABILITY.—

“(i) EFFECTIVE DATE.—Paragraphs (1) and (2) of this subsection shall not take effect unless the report under subparagraph (A) relating to the establishment of the COASTAL Formula concludes that the use of the COASTAL Formula for purposes of paragraph (1) and (2) would not have an adverse financial impact on the national flood insurance program and that the COASTAL Formula is based on valid scientific assumptions that would allow a degree of accuracy of not less than 90 percent to be achieved in allocating flood losses for indeterminate losses.

“(ii) EFFECT OF MODIFICATIONS.—Unless the report under subparagraph (A) relating to a modification of the COASTAL Formula concludes that the use of the COASTAL Formula, as so modified, for purposes of paragraphs (1) and (2) would not have an adverse financial impact on the national flood insurance program and that the COASTAL Formula is based on valid scientific assumptions that would allow a degree of accuracy of not less than 90 percent to be achieved in allocating flood losses for indeterminate losses the Administrator may not use the COASTAL Formula, as so modified, for purposes of paragraphs (1) and (2).

“(C) FUNDING.—Notwithstanding section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), there shall be available to the Administrator from the National Flood Insurance Fund, of amounts not otherwise obligated, not more than \$750,000 to carry out this paragraph.

“(d) DISCLOSURE OF COASTAL FORMULA.—Not later than 30 days after the date on which a post-storm assessment is submitted to the Secretary under section 12312(b)(2)(C) of the Omnibus Public Land Management Act of 2009, for each indeterminate loss for which the COASTAL Formula is used pursuant to subsection (c)(2), the Administrator shall disclose to the policyholder that makes a claim relating to the indeterminate loss—

“(1) that the Administrator used the COASTAL Formula with respect to the indeterminate loss; and

“(2) a summary of the results of the use of the COASTAL Formula.

“(e) CONSULTATION.—In carrying out subsections (b) and (c), the Secretary shall consult with—

“(1) the Under Secretary for Oceans and Atmosphere;

“(2) the Director of the National Institute of Standards and Technology;

“(3) the Chief of Engineers of the Corps of Engineers;

“(4) the Director of the United States Geological Survey;

“(5) the Office of the Federal Coordinator for Meteorology;

“(6) State insurance regulators of coastal States; and

“(7) such public, private, and academic sector entities as the Secretary considers appropriate for purposes of carrying out such subsections.

“(f) RECORDKEEPING.—Each consideration and measure the Administrator determines necessary to carry out subsection (b) may be required, with advanced approval of the Administrator, to be provided for on the National Flood Insurance Program Elevation Certificate, or maintained otherwise on record if approved by the Administrator, for any property that qualifies for the COASTAL Formula under subsection (c).

“(g) CIVIL PENALTY.—

“(1) IN GENERAL.—If an insurance claims adjuster knowingly and willfully makes a false or inaccurate determination relating to an indeterminate loss, the Administrator may, after notice and opportunity for hearing, impose on the insurance claims adjuster a civil penalty of not more than \$1,000.

“(2) DEPOSIT.—Notwithstanding section 3302 of title 31, United States Code, or any other law relating to the crediting of money, the Administrator shall deposit in the National Flood Insurance Fund any amounts received under this subsection, which shall remain available until expended and be available to the Administrator for purposes authorized for the National Flood Insurance Fund without further appropriation.

“(h) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require the Administrator to make any payment under the national flood insurance program, or an insurance company to make any payment, for an indeterminate loss based upon post-storm assessment or the COASTAL Formula.

“(i) APPLICABILITY.—Subsection (c) shall apply with respect to an indeterminate loss associated with a named storm that occurs after the date on which the Administrator issues the rule establishing the COASTAL Formula under subsection (b).

“(j) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to negate, set aside, or void any policy limit, including any loss limitation, set forth in a standard insurance policy.”.

~~Subtitle C — HEARTH Act Amendment~~

~~SEC. 100261. HEARTH ACT TECHNICAL CORRECTIONS.~~

~~For purposes of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.)—~~

~~(1) the term “local government” includes an instrumentality of a unit of general purpose local government other than a public housing agency that is established pursuant to legislation and designated by the chief executive to act on behalf of the local government with regard to activities funded under such title IV and includes a combination of general purpose local governments, such as an association of governments, that is recognized by the Secretary of Housing and Urban Development;~~