

Calendar No. _____

110TH CONGRESS
1ST SESSION

S. _____

To amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. DODD (for himself and Mr. SHELBY) from the Committee on Banking, Housing, and Urban Affairs reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Flood Insurance Reform and Modernization Act of
6 2007”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; Table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Extension of National Flood Insurance Program.
- Sec. 5. Availability of insurance for multifamily properties.
- Sec. 6. Reform of premium rate structure.
- Sec. 7. Mandatory coverage areas.
- Sec. 8. Premium adjustment.
- Sec. 9. State chartered financial institutions.
- Sec. 10. Enforcement.
- Sec. 11. Escrow of flood insurance payments.
- Sec. 12. Borrowing authority debt forgiveness.
- Sec. 13. Minimum deductibles for claims under the National Flood Insurance Program.
- Sec. 14. Considerations in determining chargeable premium rates.
- Sec. 15. Reserve fund.
- Sec. 16. Repayment plan for borrowing authority.
- Sec. 17. Payment of condominium claims.
- Sec. 18. Technical Mapping Advisory Council.
- Sec. 19. National Flood Mapping Program.
- Sec. 20. Removal of limitation on State contributions for updating flood maps.
- Sec. 21. Coordination.
- Sec. 22. Interagency coordination study.
- Sec. 23. Nonmandatory participation.
- Sec. 24. Notice of flood insurance availability under RESPA.
- Sec. 25. Testing of new floodproofing technologies.
- Sec. 26. Participation in State disaster claims mediation programs.
- Sec. 27. Reiteration of FEMA responsibilities under the 2004 Reform Act.
- Sec. 28. Additional authority of FEMA to collect information on claims payments.
- Sec. 29. Expense reimbursements of insurance companies.
- Sec. 30. Studies and Reports.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the flood insurance claims resulting from
4 the hurricane season of 2005 will likely exceed all
5 previous claims paid by the National Flood Insur-
6 ance Program;

7 (2) in order to pay the legitimate claims of pol-
8 icyholders from the hurricane season of 2005, the
9 Federal Emergency Management Agency has bor-
10 rowed over \$20,000,000,000 from the Treasury;

1 (3) the interest alone on this debt, is almost
2 \$1,000,000,000 annually, and that the Federal
3 Emergency Management Agency has indicated that
4 it will be unable to pay back this debt;

5 (4) the flood insurance program must be
6 strengthened to ensure it can pay future claims;

7 (5) while flood insurance is mandatory in the
8 100-year floodplain, substantial flooding occurs out-
9 side of existing special flood hazard areas;

10 (6) recent events throughout the country involv-
11 ing areas behind man-made structures, known as
12 “residual risk” areas, have produced catastrophic
13 losses;

14 (7) although such man-made structures produce
15 an added element of safety and therefore lessen the
16 probability that a disaster will occur, they are never-
17 theless susceptible to catastrophic loss, even though
18 such areas at one time were not included within the
19 100-year floodplain; and

20 (8) voluntary participation in the National
21 Flood Insurance Program has been minimal and
22 many families residing outside the 100-year flood-
23 plain remain unaware of the potential risk to their
24 lives and property.

1 **SEC. 3. DEFINITIONS.**

2 (a) IN GENERAL.—In this Act, the following defini-
3 tions shall apply:

4 (1) DIRECTOR.—The term “Director” means
5 the Administrator of the Federal Emergency Man-
6 agement Agency.

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

12 (3) 100-YEAR FLOODPLAIN.—The term “100-
13 year floodplain” means that area which is subject to
14 inundation from a flood having a 1 percent chance
15 of being equaled or exceeded in any given year.

16 (4) 500-YEAR FLOODPLAIN.—The term “500-
17 year floodplain” means that area which is subject to
18 inundation from a flood having a 0.2 percent chance
19 of being equaled or exceeded in any given year.

20 (5) WRITE YOUR OWN.—The term “Write Your
21 Own” means the cooperative undertaking between
22 the insurance industry and the Flood Insurance Ad-
23 ministration which allows participating property and
24 casualty insurance companies to write and service
25 standard flood insurance policies.

1 (b) COMMON TERMINOLOGY.—Except as otherwise
2 provided in this Act, any terms used in this Act shall have
3 the meaning given to such terms under section 1370 of
4 the National Flood Insurance Act of 1968 (42 U.S.C.
5 4121).

6 **SEC. 4. EXTENSION OF NATIONAL FLOOD INSURANCE PRO-**
7 **GRAM.**

8 Section 1319 of the National Flood Insurance Act of
9 1968 (42 U.S.C. 4026), is amended by striking “2008”
10 and inserting “2013.”.

11 **SEC. 5. AVAILABILITY OF INSURANCE FOR MULTIFAMILY**
12 **PROPERTIES.**

13 Section 1305 of the National Flood Insurance Act of
14 1968 (42 U.S.C. 4012) is amended by adding at the end
15 the following:

16 “(d) AVAILABILITY OF INSURANCE FOR MULTI-
17 FAMILY PROPERTIES.—

18 “(1) IN GENERAL.—The Director shall make
19 flood insurance available to cover residential prop-
20 erties of more than 4 units. Notwithstanding any
21 other provision of law, the maximum coverage
22 amount that the Director may make available under
23 this subsection to such residential properties shall be
24 equal to the coverage amount made available to com-
25 mercial properties.

1 “(2) RULE OF CONSTRUCTION.—Nothing in
2 this subsection shall be construed to limit the ability
3 of individuals residing in residential properties of
4 more than 4 units to obtain insurance for the con-
5 tents and personal articles located in such resi-
6 dences.”.

7 **SEC. 6. REFORM OF PREMIUM RATE STRUCTURE.**

8 (a) TO EXCLUDE CERTAIN PROPERTIES FROM RE-
9 CEIVING SUBSIDIZED PREMIUM RATES.—

10 (1) IN GENERAL.—Section 1307 of the Na-
11 tional Flood Insurance Act of 1968 (42 U.S.C.
12 4014) is amended—

13 (A) in subsection (a)—

14 (i) in paragraph (2), by striking “;
15 and” and inserting a semicolon;

16 (ii) in paragraph (3), by striking the
17 period at the end and inserting “; and”;
18 and

19 (iii) by adding at the end the fol-
20 lowing:

21 “(4) the exclusion of prospective insureds from
22 purchasing flood insurance at rates less than those
23 estimated under paragraph (1), as required by para-
24 graph (2), for certain properties, including for—

1 “(A) any property which is not the pri-
2 mary residence of an individual;

3 “(B) any severe repetitive loss property, as
4 defined in section 1361A(b);

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

9 “(D) any business property; and

10 “(E) any property which on or after the
11 date of enactment of the Flood Insurance Re-
12 form and Modernization Act of 2007 has expe-
13 rienced or sustained—

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

17 “(ii) substantial improvement exceed-
18 ing 30 percent of the fair market value of
19 such property.”; and

20 (B) by adding at the end the following:

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

1 “(1) any property not insured by the flood in-
2 surance program as of the date of enactment of the
3 Flood Insurance Reform and Modernization Act of
4 2007; and

5 “(2) any policy under the flood insurance pro-
6 gram that has lapsed in coverage, as a result of the
7 deliberate choice of the holder of such policy.”.

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

11 (b) INCREASE IN ANNUAL LIMITATION ON PREMIUM
12 INCREASES.—Section 1308(e) of the National Flood In-
13 surance Act of 1968 (42 U.S.C. 4015(e)) is amended—

14 (1) by striking “under this title for any prop-
15 erties within any single” and inserting the following:
16 “under this title for any properties—

17 “(1) within any single”; and

18 (2) by striking “10 percent” and inserting “15
19 percent”; and

20 (3) by striking the period at the end and insert-
21 ing the following: “; and

22 “(2) described in section 1307(a)(4) shall be in-
23 creased by 25 percent each year, until the average
24 risk premium rate for such properties is equal to the

1 average of the risk premium rates for properties de-
2 scribed under paragraph (1).”.

3 **SEC. 7. MANDATORY COVERAGE AREAS.**

4 (a) SPECIAL FLOOD HAZARD AREAS.—Not later
5 than 90 days after the date of enactment of this Act, the
6 Director shall issue final regulations establishing a revised
7 definition of areas of special flood hazards for purposes
8 of the National Flood Insurance Program.

9 (b) RESIDUAL RISK AREAS.—The regulations re-
10 quired by subsection (a) shall—

11 (1) include any area previously identified by the
12 Director as an area having special flood hazards
13 under section 102 of the Flood Disaster Protection
14 Act of 1973 (42 U.S.C. 4012a)); and

15 (2) require the expansion of areas of special
16 flood hazards to include areas of residual risk, in-
17 cluding areas that are located behind levees, dams,
18 and other man-made structures.

19 (c) MANDATORY PARTICIPATION IN NATIONAL
20 FLOOD INSURANCE PROGRAM.—

21 (1) IN GENERAL.—Any area described in sub-
22 section (b) shall be subject to the mandatory pur-
23 chase requirements of sections 102 and 202 of the
24 Flood Disaster Protection Act of 1973 (42 U.S.C.
25 4012a, 4106).

1 (2) LIMITATION.—The mandatory purchase re-
2 quirement under paragraph (1) shall have no force
3 or effect until the mapping of all residual risk areas
4 in the United States that the Director determines
5 essential in order to administer the National Flood
6 Insurance Program, as required under section 19,
7 are in the maintenance phase.

8 **SEC. 8. PREMIUM ADJUSTMENT.**

9 Section 1308 of the National Flood Insurance Act of
10 1968 (42 U.S.C. 4015) is amended by adding at the end
11 the following:

12 “(g) PREMIUM ADJUSTMENT TO REFLECT CURRENT
13 RISK OF FLOOD.—Notwithstanding subsection (f), and
14 upon completion of the updating of any flood insurance
15 rate map under this Act, the Flood Disaster Protection
16 Act of 1973, or the Flood Insurance Reform and Mod-
17 ernization Act of 2007, any property located in an area
18 that is participating in the national flood insurance pro-
19 gram shall have the risk premium rate charged for flood
20 insurance on such property adjusted to accurately reflect
21 the current risk of flood to such property, subject to any
22 other provision of this Act. Any increase in the risk pre-
23 mium rate charged for flood insurance on any property
24 that is covered by a flood insurance policy on the date
25 of completion of such updating or remapping that is a re-

1 sult of such updating or remapping shall be phased in over
2 a 2-year period at the rate of 50 percent per year.”.

3 **SEC. 9. STATE CHARTERED FINANCIAL INSTITUTIONS.**

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

6 (1) in paragraph (1), by striking “; and” and
7 inserting a semicolon;

8 (2) in paragraph (2), by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(3) given satisfactory assurance that by De-
12 cember 31, 2008, lending institutions chartered by a
13 State, and not insured by the Federal Deposit Insur-
14 ance Corporation, shall be subject to regulations by
15 that State that are consistent with the requirements
16 of section 102 of the Flood Disaster Protection Act
17 of 1973 (42 U.S.C. 4012a).”.

18 **SEC. 10. ENFORCEMENT.**

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

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

23 (2) by striking the second sentence.

1 **SEC. 11. ESCROW OF FLOOD INSURANCE PAYMENTS.**

2 (a) IN GENERAL.—Section 102(d) of the Flood Dis-
3 aster Protection Act of 1973 (42 U.S.C. 4012a(d)) is
4 amended—

5 (1) by amending paragraph (1) to read as fol-
6 lows:

7 “(1) REGULATED LENDING INSTITUTIONS.—

8 “(A) FEDERAL ENTITIES RESPONSIBLE
9 FOR LENDING REGULATIONS.—Each Federal
10 entity for lending regulation (after consultation
11 and coordination with the Federal Financial In-
12 stitutions Examination Council) shall, by regu-
13 lation, direct that any premiums and fees for
14 flood insurance under the National Flood Insur-
15 ance Act of 1968, on any property for which a
16 loan has been made for acquisition or construc-
17 tion purposes shall be paid to the mortgage
18 lender, with the same frequency as payments on
19 the loan are made, for the duration of the loan.
20 Upon receipt of any premiums or fees, the lend-
21 er shall deposit such premiums and fees in an
22 escrow account on behalf of the borrower. Upon
23 receipt of a notice from the Director or the pro-
24 vider of the flood insurance that insurance pre-
25 miums are due, the remaining balance of an es-

1 crow account shall be paid to the provider of
2 the flood insurance.

3 “(B) STATE ENTITIES RESPONSIBLE FOR
4 LENDING REGULATIONS.—In order to continue
5 to participate in the flood insurance program,
6 each State shall direct that its entity or agency
7 with primary responsibility for the supervision
8 of lending institutions in that State require that
9 premiums and fees for flood insurance under
10 the National Flood Insurance Act of 1968, on
11 any property for which a loan has been made
12 for acquisition or construction purposes shall be
13 paid to the mortgage lender, with the same fre-
14 quency as payments on the loan are made, for
15 the duration of the loan. Upon receipt of any
16 premiums or fees, the lender shall deposit such
17 premiums and fees in an escrow account on be-
18 half of the borrower. Upon receipt of a notice
19 from such State entity or agency, the Director,
20 or the provider of the flood insurance that in-
21 surance premiums are due, the remaining bal-
22 ance of an escrow account shall be paid to the
23 provider of the flood insurance.”; and
24 (2) by adding at the end the following:

1 “(6) NOTICE UPON LOAN TERMINATION.—Upon
2 final payment of the mortgage, a regulated lending
3 institution shall provide notice to the policyholder
4 that insurance coverage may cease with such final
5 payment. The regulated lending institution shall also
6 provide direction as to how the homeowner may con-
7 tinue flood insurance coverage after the life of the
8 loan.”.

9 (b) APPLICABILITY.—The amendment made by sub-
10 section (a)(1) shall apply to any mortgage outstanding or
11 entered into on or after the expiration of the 2-year period
12 beginning on the date of enactment of this Act.

13 **SEC. 12. BORROWING AUTHORITY DEBT FORGIVENESS.**

14 (a) IN GENERAL.—The Secretary of the Treasury re-
15 linquishes the right to any repayment of amounts due
16 from the Director in connection with the exercise of the
17 authority vested to the Director to borrow such sums
18 under section 1309 of the National Flood Insurance Act
19 of 1968 (42 U.S.C. 4016), to the extent such borrowed
20 sums were used to fund the payment of flood insurance
21 claims under the National Flood Insurance Program for
22 any damage to or loss of property resulting from the hurri-
23 canes of 2005.

24 (b) CERTIFICATION.—The debt forgiveness described
25 under subsection (a) shall only take effect if the Director

1 certifies to the Secretary of Treasury that all authorized
2 resources or funds available to the Director to operate the
3 National Flood Insurance Program—

4 (1) have been otherwise obligated to pay claims
5 under the National Flood Insurance Program; and

6 (2) are not otherwise available to make pay-
7 ments to the Secretary on any outstanding notes or
8 obligations issued by the Director and held by the
9 Secretary.

10 (c) DECREASE IN BORROWING AUTHORITY.—The
11 first sentence of subsection (a) of section 1309 of the Na-
12 tional Flood Insurance Act of 1968 (42 U.S.C. 4016(a))
13 is amended by striking “; except that, through September
14 30, 2008, clause (2) of this sentence shall be applied by
15 substituting ‘\$20,775,000,000’ for ‘\$ 1,500,000,000’ ”.

16 **SEC. 13. MINIMUM DEDUCTIBLES FOR CLAIMS UNDER THE**
17 **NATIONAL FLOOD INSURANCE PROGRAM.**

18 Section 1312 of the National Flood Insurance Act of
19 1968 (42 U.S.C. 4019) is amended—

20 (1) by striking “The Director is” and inserting
21 the following:

22 “(a) IN GENERAL.—The Director is”; and

23 (2) by adding at the end the following:

24 “(b) MINIMUM ANNUAL DEDUCTIBLE.—

1 “(1) PRE-FIRM PROPERTIES.—For any struc-
2 ture which is covered by flood insurance under this
3 title, and on which construction or substantial im-
4 provement occurred on or before December 31,
5 1974, or before the effective date of an initial flood
6 insurance rate map published by the Director under
7 section 1360 for the area in which such structure is
8 located, the minimum annual deductible for damage
9 to such structure shall be—

10 “(A) \$1,500, if the flood insurance cov-
11 erage for such structure covers loss of, or phys-
12 ical damage to, such structure in an amount
13 equal to or less than \$100,000; and

14 “(B) \$2,000, if the flood insurance cov-
15 erage for such structure covers loss of, or phys-
16 ical damage to, such structure in an amount
17 greater than \$100,000.

18 “(2) POST-FIRM PROPERTIES.—For any struc-
19 ture which is covered by flood insurance under this
20 title, and on which construction or substantial im-
21 provement occurred after December 31, 1974, or
22 after the effective date of an initial flood insurance
23 rate map published by the Director under section
24 1360 for the area in which such structure is located,

1 the minimum annual deductible for damage to such
2 structure shall be—

3 “(A) \$750, if the flood insurance coverage
4 for such structure covers loss of, or physical
5 damage to, such structure in an amount equal
6 to or less than \$100,000; and

7 “(B) \$1,000, if the flood insurance cov-
8 erage for such structure covers loss of, or phys-
9 ical damage to, such structure in an amount
10 greater than \$100,000.”.

11 **SEC. 14. CONSIDERATIONS IN DETERMINING CHARGEABLE**
12 **PREMIUM RATES.**

13 Section 1308 of the National Flood Insurance Act of
14 1968 (42 U.S.C. 4015(b)) is amended—

15 (1) in subsection (a), by striking “, after con-
16 sultation with” and all that follows through “by reg-
17 ulation” and inserting “prescribe, after providing
18 notice”;

19 (2) in subsection (b)—

20 (A) in paragraph (1), by striking the pe-
21 riod at the end and inserting a semicolon;

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

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

1 (D) in paragraph (4), by striking the pe-
2 riod and inserting “; and”; and

3 (E) by adding at the end the following:

4 “(5) adequate, on the basis of accepted actu-
5 arial principles, to cover the average historical loss
6 year obligations incurred by the National Flood In-
7 surance Fund.”; and

8 (3) by adding at the end the following:

9 “(h) RULE OF CONSTRUCTION.—For purposes of this
10 section, the calculation of an ‘average historical loss
11 year’—

12 “(1) includes catastrophic loss years; and

13 “(2) shall be computed in accordance with gen-
14 erally accepted actuarial principles.”.

15 **SEC. 15. RESERVE FUND.**

16 Chapter I of the National Flood Insurance Act of
17 1968 (42 U.S.C. 4011 et seq.) is amended by inserting
18 after section 1310 the following:

19 **“SEC. 1310A. RESERVE FUND.**

20 “(a) ESTABLISHMENT OF RESERVE FUND.—In car-
21 rying out the flood insurance program authorized by this
22 chapter, the Director shall establish in the Treasury of
23 the United States a National Flood Insurance Reserve
24 Fund (in this section referred to as the ‘Reserve Fund’)
25 which shall—

1 “(1) be an account separate from any other ac-
2 counts or funds available to the Director; and

3 “(2) be available for meeting the expected fu-
4 ture obligations of the flood insurance program.

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

8 “(1) 1 percent of the sum of the total potential
9 loss exposure of all outstanding flood insurance poli-
10 cies in force in the prior fiscal year; or

11 “(2) such higher percentage as the Director de-
12 termines to be appropriate, taking into consideration
13 any circumstance that may raise a significant risk of
14 substantial future losses to the Reserve Fund.

15 “(c) MAINTENANCE OF RESERVE RATIO.—

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

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

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

1 “(2) CONSIDERATIONS.—In exercising the au-
2 thority granted under paragraph (1), the Director
3 shall consider—

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

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

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

10 “(D) any other factor that the Director de-
11 termines appropriate.

12 “(3) LIMITATIONS.—In exercising the authority
13 granted under paragraph (1), the Director shall be
14 subject to all other provisions of this Act, including
15 any provisions relating to chargeable premium rates
16 or annual increases of such rates.

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

19 “(1) IN GENERAL.—Beginning in fiscal year
20 2008 and not ending until the fiscal year in which
21 the ratio required under subsection (b) is achieved,
22 in each such fiscal year the Director shall place in
23 the Reserve Fund an amount equal to not less than
24 7.5 percent of the reserve ratio required under sub-
25 section (b).

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

6 “(3) EXCEPTION.—If at any time after the
7 ratio required under subsection (b) is achieved, the
8 Reserve Fund falls below the required ratio under
9 subsection (b), the Director shall place in the Re-
10 serve Fund for that fiscal year an amount equal to
11 not less than 7.5 percent of the reserve ratio re-
12 quired under subsection (b).

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

17 “(1) describes and details the specific concerns
18 of the Director regarding such consequences;

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

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

1 **SEC. 16. REPAYMENT PLAN FOR BORROWING AUTHORITY.**

2 Section 1309 of the National Flood Insurance Act of
3 1968 (42 U.S.C. 4016) is amended by adding at the end
4 the following:

5 “(c) Any funds borrowed by the Director under the
6 authority established in subsection (a) shall include a
7 schedule for repayment of such amounts which shall be
8 transmitted to the—

9 “(1) Secretary of the Treasury;

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

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

14 “(d) In addition to the requirement under subsection
15 (c), in connection with any funds borrowed by the Director
16 under the authority established in subsection (a), the Di-
17 rector, beginning 6 months after the date on which such
18 borrowed funds are issued, and continuing every 6 months
19 thereafter until such borrowed funds are fully repaid, shall
20 submit a report on the progress of such repayment to
21 the—

22 “(1) Secretary of the Treasury;

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

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

1 **SEC. 17. PAYMENT OF CONDOMINIUM CLAIMS.**

2 Section 1312 of the National Flood Insurance Act of
3 1968 (42 U.S.C. 4019), as amended by section 13, is fur-
4 ther amended by adding at the end the following:

5 “(c) PAYMENT OF CLAIMS TO CONDOMINIUM OWN-
6 ERS.—The Director may not deny payment for any dam-
7 age to or loss of property which is covered by flood insur-
8 ance to condominium owners who purchased such flood in-
9 surance separate and apart from the flood insurance pur-
10 chased by the condominium association in which such
11 owner is a member, based, solely or in any part, on the
12 flood insurance coverage of the condominium association
13 or others on the overall property owned by the condo-
14 minium association. Notwithstanding any regulations,
15 rules, or restrictions established by the Director relating
16 to appeals and filing deadlines, the Director shall ensure
17 that the requirements of this subsection are met with re-
18 spect to any claims for damages resulting from the hurri-
19 cane season of 2005.”.

20 **SEC. 18. TECHNICAL MAPPING ADVISORY COUNCIL.**

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

24 (b) MEMBERSHIP.—

25 (1) IN GENERAL.—The Council shall consist of
26 the Director, or the designee thereof, and 12 addi-

1 tional members to be appointed by the Director or
2 the designee of the Director, who shall be—

3 (A) the Under Secretary of Commerce for
4 Oceans and Atmosphere (or the designee there-
5 of);

6 (B) a member of a recognized professional
7 surveying association or organization

8 (C) a member of a recognized professional
9 mapping association or organization;

10 (D) a member of a recognized professional
11 engineering associations and organizations;

12 (E) a member of a recognized professional
13 associations or organizations representing flood
14 hazard determination firms;

15 (F) a representative of the United States
16 Geological Survey;

17 (G) a representative of recognized profes-
18 sional associations or organizations representing
19 State geographic information;

20 (H) a representative of State national flood
21 insurance coordination offices;

22 (I) a representative of the Corps of Engi-
23 neers;

24 (J) the Secretary of the Interior (or the
25 designee thereof);

1 (K) the Secretary of Agriculture (or the
2 designee thereof); and

3 (L) a member of a recognized regional
4 flood and storm water management organiza-
5 tion.

6 (2) QUALIFICATIONS.—Members of the Council
7 shall be appointed based on their demonstrated
8 knowledge and competence regarding surveying, car-
9 tography, remote sensing, geographic information
10 systems, or the technical aspects of preparing and
11 using flood insurance rate maps.

12 (c) DUTIES.—The Council shall—

13 (1) recommend to the Director how to improve
14 in a cost-effective manner the—

15 (A) accuracy, general quality, ease of use,
16 and distribution and dissemination of flood in-
17 surance rate maps and risk data; and

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

21 (2) recommend to the Director mapping stand-
22 ards and guidelines for—

23 (A) flood insurance rate maps; and

24 (B) data accuracy, data quality, data cur-
25 rency, and data eligibility;

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

4 (4) recommend procedures for delegating map-
5 ping activities to State and local mapping partners;

6 (5) recommend to the Director and other Fed-
7 eral agencies participating in the Council—

8 (A) methods for improving interagency and
9 intergovernmental coordination on flood map-
10 ping and flood risk determination; and

11 (B) a funding strategy to leverage and co-
12 ordinate budgets and expenditures across Fed-
13 eral agencies; and

14 (6) submit an annual report to the Director
15 that contains—

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

18 (B) an evaluation of the status and per-
19 formance of flood insurance rate maps and
20 mapping activities to revise and update flood in-
21 surance rate maps, as required under section 3;
22 and

23 (C) a summary of recommendations made
24 by the Council to the Director.

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

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

6 (A) develop recommendations on how to—

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

10 (ii) ensure that the Federal Emer-
11 gency Management Agency uses the best
12 available methodology to consider the im-
13 pact of—

14 (I) the rise in the sea level; and

15 (II) future development on flood
16 risk; and

17 (B) not later than 1 year after the date of
18 enactment of this Act, prepare written rec-
19 ommendations in a future conditions risk as-
20 sessment and modeling report and to submit
21 such recommendations to the Director.

22 (2) RESPONSIBILITY OF THE DIRECTOR.—The
23 Director, as part of the ongoing program to review
24 and update National Flood Insurance Program rate
25 maps under section 19, shall incorporate any future

1 risk assessment submitted under paragraph (1)(B)
2 in any such revision or update.

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

6 (f) COORDINATION.—To ensure that the Council’s
7 recommendations are consistent, to the maximum extent
8 practicable, with national digital spatial data collection
9 and management standards, the Chairperson shall consult
10 with the Chairperson of the Federal Geographic Data
11 Committee (established pursuant to OMB Circular A–16).

12 (g) COMPENSATION.—Members of the Council shall
13 receive no additional compensation by reason of their serv-
14 ice on the Council.

15 (h) MEETINGS AND ACTIONS.—

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

21 (2) INITIAL MEETING.—The Director, or a per-
22 son designated by the Director, shall request and co-
23 ordinate the initial meeting of the Council.

1 (i) OFFICERS.—The Chairperson may appoint offi-
2 cers to assist in carrying out the duties of the Council
3 under subsection (c).

4 (j) STAFF.—

5 (1) STAFF OF FEMA.—Upon the request of the
6 Chairperson, the Director may detail, on a non-
7 reimbursable basis, personnel of the Federal Emer-
8 gency Management Agency to assist the Council in
9 carrying out its duties.

10 (2) STAFF OF OTHER FEDERAL AGENCIES.—

11 Upon request of the Chairperson, any other Federal
12 agency that is a member of the Council may detail,
13 on a non-reimbursable basis, personnel to assist the
14 Council in carrying out its duties.

15 (k) POWERS.—In carrying out this section, the Coun-
16 cil may hold hearings, receive evidence and assistance, pro-
17 vide information, and conduct research, as it considers ap-
18 propriate.

19 (l) REPORT TO CONGRESS.—The Director, on an an-
20 nual basis, shall report to the Committee on Banking,
21 Housing, and Urban Affairs of the Senate, the Committee
22 on Financial Services of the House of Representatives,
23 and the Office of Management and Budget on the—

24 (1) recommendations made by the Council; and

1 (2) actions taken by the Federal Emergency
2 Management Agency to address such recommenda-
3 tions to improve flood insurance rate maps and flood
4 risk data.

5 **SEC. 19. NATIONAL FLOOD MAPPING PROGRAM.**

6 (a) REVIEWING, UPDATING, AND MAINTAINING
7 MAPS.—The Director, in coordination with the Technical
8 Mapping Advisory Council established under section 18,
9 shall establish an ongoing program under which the Direc-
10 tor shall review, update, and maintain National Flood In-
11 surance Program rate maps in accordance with this sec-
12 tion.

13 (b) MAPPING.—

14 (1) IN GENERAL.—In carrying out the program
15 established under subsection (a), the Director
16 shall—

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

20 (i) all areas located within the 100-
21 year floodplain;

22 (ii) all areas located within the 500-
23 year floodplain;

24 (iii) areas of residual risk that have
25 not previously been identified, including

1 areas that are protected levees, dams, and
2 other man-made structures; and

3 (iv) areas that could be inundated as
4 a result of the failure of a levee, dam, or
5 other man-made structure;

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

11 (C) use, in identifying, reviewing, updat-
12 ing, maintaining, or publishing any National
13 Flood Insurance Program rate map required
14 under this section or under the National Flood
15 Insurance Act of 1968, the most accurate to-
16 pography and elevation data available.

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

19 (A) GROUND ELEVATION DATA.—Assess
20 the accuracy of current ground elevation data
21 used for hydrologic and hydraulic modeling of
22 flooding sources and mapping of the flood haz-
23 ard and wherever necessary acquire new ground
24 elevation data utilizing the most up-to-date
25 geospatial technologies in accordance with the

1 existing guidelines and specifications of the
2 Federal Emergency Management Agency.

3 (B) DATA ON A WATERSHED BASIS.—De-
4 velop National Flood Insurance Program flood
5 data on a watershed basis—

6 (i) to provide the most technically ef-
7 fective and efficient studies and hydrologic
8 and hydraulic modeling; and

9 (ii) to eliminate, to the maximum ex-
10 tent possible, discrepancies in base flood
11 elevations between adjacent political sub-
12 divisions.

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

15 (A) any relevant information on coastal in-
16 undation from—

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

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

22 (B) any relevant information of the United
23 States Geological Survey on stream flows, wa-
24 tershed characteristics, and topography that is

1 useful in the identification of flood hazard
2 areas, as determined by the Director;

3 (C) any relevant information on land sub-
4 sidence, coastal erosion areas, and other floor-
5 related hazards;

6 (D) any relevant information or data of
7 the National Oceanic and Atmospheric Admin-
8 istration and the United States Geological Sur-
9 vey relating to the best available climate science
10 and the potential for future inundation from
11 sea level rise, increased precipitation, and in-
12 creased intensity of hurricanes due to global
13 warming; and

14 (E) any other relevant information as may
15 be recommended by the Technical Mapping Ad-
16 visory Committee.

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

19 (1) establish standards to—

20 (A) ensure that maps are adequate for—

21 (i) flood risk determinations; and

22 (ii) use by State and local govern-
23 ments in managing development to reduce
24 the risk of flooding; and

1 (B) facilitate identification and use of con-
2 sistent methods of data collection and analysis
3 by the Director, in conjunction with State and
4 local governments, in developing maps for com-
5 munities with similar flood risks, as determined
6 by the Director; and

7 (2) publish maps in a format that is—

8 (A) digital geospatial data compliant;

9 (B) compliant with the open publishing
10 and data exchange standards established by the
11 Open Geospatial Consortium; and

12 (C) compliant with the North American
13 Vertical Datum of 1998 for New Hydrologic
14 and Hydraulic Engineering.

15 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There is
16 authorized to be appropriated to the Director to carry out
17 this section \$400,000,000 for each of fiscal years 2008
18 through 2013.

19 **SEC. 20. REMOVAL OF LIMITATION ON STATE CONTRIBU-**
20 **TIONS FOR UPDATING FLOOD MAPS.**

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

1 **SEC. 21. COORDINATION.**

2 (a) INTERAGENCY BUDGET CROSSCUT REPORT.—

3 (1) IN GENERAL.—The Secretary of Homeland
4 Security, the Director, the Director of the Office of
5 Management and Budget, and the heads of each
6 Federal department or agency carrying out activities
7 under sections 18 and 19 shall work together to en-
8 sure that flood risk determination data and
9 geospatial data are shared among Federal agencies
10 in order to coordinate the efforts of the Nation to
11 reduce its vulnerability to flooding hazards.

12 (2) REPORT.—Not later than 30 days after the
13 submission of the budget of the United States Gov-
14 ernment by the President to Congress, the Director
15 of the Office of Management and Budget, in coordi-
16 nation with the Federal Emergency Management
17 Agency, the United States Geological Survey, the
18 National Oceanic and Atmospheric Administration,
19 the Corps of Engineers, and other Federal agencies,
20 as appropriate, shall submit to the appropriate au-
21 thorizing and appropriating committees of the Sen-
22 ate and the House of Representatives a financial re-
23 port, certified by the Secretary or head of each such
24 agency, an interagency budget crosscut report that
25 displays the budget proposed for each of the Federal
26 agencies working on flood risk determination data

1 and digital elevation models, including any planned
2 interagency or intraagency transfers.

3 (b) DUTIES OF THE DIRECTOR.—In carrying out sec-
4 tions 18 and 19, the Director shall—

5 (1) participate, pursuant to section 216 of Pub-
6 lic Law 107-347 (116 Stat. 2945), in the establish-
7 ment of such standards and common protocols as
8 are necessary to assure the interoperability of
9 geospatial data for all users of such information;

10 (2) coordinate with, seek assistance and co-
11 operation of, and provide liaison to the Federal Geo-
12 graphic Data Committee pursuant to Office of Man-
13 agement and Budget Circular A-16 and Executive
14 Order 12906 for the implementation of and compli-
15 ance with such standards;

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

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

24 (5) develop a funding strategy to leverage and
25 coordinate budgets and expenditures, and to estab-

1 lish joint funding mechanisms with other Federal
2 agencies and units of State and local government to
3 share the collection and utilization of geospatial data
4 among all governmental users.

5 **SEC. 22. INTERAGENCY COORDINATION STUDY.**

6 (a) IN GENERAL.—The Director shall enter into a
7 contract with the National Academy of Public Administra-
8 tion to conduct a study on how the Federal Emergency
9 Management Agency—

10 (1) should improve interagency and intergovern-
11 mental coordination on flood mapping, including a
12 funding strategy to leverage and coordinate budgets
13 and expenditures; and

14 (2) can establish joint funding mechanisms with
15 other Federal agencies and units of State and local
16 government to share the collection and utilization of
17 data among all governmental users.

18 (b) TIMING.—Not later than 180 days after the date
19 of enactment of this Act, the National Academy of Public
20 Administration shall report the findings of the study re-
21 quired under subsection (a) to the—

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

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

- 1 (3) Committee on Appropriations of the Senate;
2 and
3 (4) Committee on Appropriations of the House
4 of Representatives.

5 **SEC. 23. NONMANDATORY PARTICIPATION.**

6 (a) NONMANDATORY PARTICIPATION IN NATIONAL
7 FLOOD INSURANCE PROGRAM FOR 500-YEAR FLOOD-
8 PLAIN.—Any area located within the 500-year floodplain
9 shall not be subject to the mandatory purchase require-
10 ments of sections 102 or 202 of the Flood Disaster Protec-
11 tion Act of 1973 (42 U.S.C. 4012a, 4106).

12 (b) NOTICE.—

13 (1) BY DIRECTOR.—In carrying out the Na-
14 tional Flood Insurance Program, the Director shall
15 provide notice to any community located in an area
16 within the 500-year floodplain.

17 (2) TIMING OF NOTICE.—The notice required
18 under paragraph (1) shall be made not later than 6
19 months after the date of completion of the initial
20 mapping of the 500-year floodplain, as required
21 under section 18.

22 (3) LENDER REQUIRED NOTICE.—

23 (A) REGULATED LENDING INSTITU-
24 TIONS.—Each Federal or State entity for lend-
25 ing regulation (after consultation and coordina-

1 tion with the Federal Financial Institutions Ex-
2 amination Council) shall, by regulation, require
3 regulated lending institutions, as a condition of
4 making, increasing, extending, or renewing any
5 loan secured by property located in an area
6 within the 500-year floodplain, to notify the
7 purchaser or lessee (or obtain satisfactory as-
8 surances that the seller or lessor has notified
9 the purchaser or lessee) and the servicer of the
10 loan that such property is located in an area
11 within the 500-year floodplain, in a manner
12 that is consistent with and substantially iden-
13 tical to the notice required under section
14 1364(a)(1) of the National Flood Insurance Act
15 of 1968 (42 U.S.C. 4104a(a)(1)).

16 (B) FEDERAL OR STATE AGENCY LEND-
17 ERS.—Each Federal or State agency lender
18 shall, by regulation, require notification in the
19 same manner as provided under subparagraph
20 (A) with respect to any loan that is made by a
21 Federal or State agency lender and secured by
22 property located in an area within the 500-year
23 floodplain.

24 (C) PENALTY FOR NONCOMPLIANCE.—Any
25 regulated lending institution or Federal or

1 State agency lender that fails to comply with
2 the notice requirements established by this
3 paragraph shall be subject to the penalties pre-
4 scribed under section 102(f)(5) of the Flood
5 Disaster Protection Act of 1973 (42 U.S.C.
6 4012a(f)(5)).

7 **SEC. 24. NOTICE OF FLOOD INSURANCE AVAILABILITY**
8 **UNDER RESPA.**

9 Section 5(b) of the Real Estate Settlement Proce-
10 dures Act of 1974 (12 U.S.C. 2604(b)) is amended—

11 (1) in paragraph (4), by striking “; and” and
12 inserting a semicolon;

13 (2) in paragraph (5), by striking the period and
14 inserting “; and”; and

15 (3) by adding at the end the following:

16 “(6) an explanation of flood insurance and the
17 availability of flood insurance under the National
18 Flood Insurance Program, whether or not the real
19 estate is located in an area having special flood haz-
20 ards.”.

21 **SEC. 25. TESTING OF NEW FLOODPROOFING TECH-**
22 **NOLOGIES.**

23 (a) PERMISSIBLE TESTING.—A temporary residential
24 structure built for the purpose of testing a new flood
25 proofing technology, as described in subsection (b), in any

1 State or community that receives mitigation assistance
2 under section 1366 of the National Flood Insurance Act
3 of 1968 (42 U.S.C. 4104e) may not be construed to be
4 in violation of any flood risk mitigation plan developed by
5 that State or community and approved by the Director
6 of the Federal Emergency Management Agency.

7 (b) CONDITIONS ON TESTING.—Testing permitted
8 under subsection (a) shall—

9 (1) be performed on an uninhabited residential
10 structure;

11 (2) require dismantling of the structure at the
12 conclusion of such testing; and

13 (3) require that all costs associated with such
14 testing and dismantling be covered by the individual
15 or entity conducting the testing, or on whose behalf
16 the testing is conducted.

17 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed to alter, limit, or extend the avail-
19 ability of flood insurance to any structure that may em-
20 ploy, utilize, or apply any technology tested under sub-
21 section (b).

1 **SEC. 26. PARTICIPATION IN STATE DISASTER CLAIMS MEDI-**
2 **ATION PROGRAMS.**

3 Chapter I of the National Flood Insurance Act of
4 1968 (42 U.S.C. 4011 et seq.) is amended by inserting
5 after section 1313 the following:

6 **“SEC. 1314. PARTICIPATION IN STATE DISASTER CLAIMS**
7 **MEDIATION PROGRAMS.**

8 “(a) REQUIREMENT TO PARTICIPATE.—In the case
9 of the occurrence of a major disaster, as defined in section
10 102 of the Robert T. Stafford Disaster Relief and Emer-
11 gency Assistance Act (42 U.S.C. 5122) that may have re-
12 sulted in flood damage under the flood insurance program
13 established under this chapter and other personal lines
14 residential property insurance coverage offered by a State
15 regulated insurer, upon request made by the insurance
16 commissioner of a State (or such other official responsible
17 for regulating the business of insurance in the State) for
18 the participation of representatives of the Director in a
19 program sponsored by such State for nonbinding medi-
20 ation of insurance claims resulting from a major disaster,
21 the Director shall cause representatives of the flood insur-
22 ance program to participate in such a State program
23 where claims under the flood insurance program are in-
24 volved to expedite settlement of flood damage claims re-
25 sulting from such disaster.

1 “(b) EXTENT OF PARTICIPATION.—In satisfying the
2 requirements of subsection (a), the Director shall require
3 that each representative of the Director—

4 “(1) be certified for purposes of the flood insur-
5 ance program to settle claims against such program
6 resulting from such disaster in amounts up to the
7 limits of policies under such program;

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

12 “(3) participate in good faith negotiations to-
13 ward the settlement of such claims with policy-
14 holders of coverage made available under the flood
15 insurance program; and

16 “(4) finalize the settlement of such claims on
17 behalf of the flood insurance program with such pol-
18 icyholders.

19 “(c) COORDINATION.—Representatives of the Direc-
20 tor shall at all times coordinate their activities with insur-
21 ance officials of the State and representatives of insurers
22 for the purposes of consolidating and expediting settle-
23 ment of claims under the national flood insurance program
24 resulting from such disaster.

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

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

7 “(B) an active member of such bar for at least
8 1 year prior to the year in which such mediator’s
9 participation is sought; or

10 “(2) a retired trial judge from any United
11 States jurisdiction who was a member in good stand-
12 ing of the bar in the State in which the judge pre-
13 sided for at least 5 years prior to the year in which
14 such mediator’s participation is sought.

15 “(e) MEDIATION PROCEEDINGS AND DOCUMENTS
16 PRIVILEGED.—As a condition of participation, all state-
17 ments made and documents produced pursuant to State-
18 sponsored mediation involving representatives of the Di-
19 rector shall be deemed privileged and confidential settle-
20 ment negotiations made in anticipation of litigation.

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

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

1 “(2) affect the rights or obligations of the par-
2 ties, as established—

3 “(A) in any regulation issued by the Direc-
4 tor, including any regulation relating to a
5 Standard Flood Insurance Policy;

6 “(B) under this Act; and

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

9 “(g) **EXCLUSIVE FEDERAL JURISDICTION.**—Partici-
10 pation in State-sponsored mediation shall not alter,
11 change, or modify the original exclusive jurisdiction of
12 United States courts, as set forth in this Act.

13 “(h) **COST LIMITATION.**—Nothing in this section
14 shall be construed to require the Director or a representa-
15 tive of the Director to pay additional mediation fees relat-
16 ing to flood insurance claims associated with a State-spon-
17 sored mediation program in which such representative of
18 the Director participates.

19 “(i) **EXCEPTION.**—In the case of the occurrence of
20 a major disaster that results in flood damage claims under
21 the national flood insurance program and that does not
22 result in any loss covered by a personal lines residential
23 property insurance policy—

24 “(1) this section shall not apply; and

1 “(2) the provisions of the Standard Flood In-
2 surance Policy under the national flood insurance
3 program and the appeals process established under
4 section 205 of the Bunning-Bereuter-Blumenauer
5 Flood Insurance Reform Act of 2004 (42 U.S.C.
6 4011 note) and the regulations issued pursuant to
7 such section shall apply exclusively.

8 “(j) REPRESENTATIVES OF THE DIRECTOR.—For
9 purposes of this section, the term ‘representatives of the
10 Director’ means representatives of the national flood in-
11 surance program who participate in the appeals process
12 established under section 205 of the Bunning-Bereuter-
13 Blumenauer Flood Insurance Reform Act of 2004 (42
14 U.S.C. 4011 note).”.

15 **SEC. 27. REITERATION OF FEMA RESPONSIBILITIES UNDER**
16 **THE 2004 REFORM ACT.**

17 (a) APPEALS PROCESS.—As required in section 205
18 of the Bunning-Bereuter-Blumenauer Flood Insurance
19 Reform Act of 2004 (42 U.S.C. 4011 note), the Director
20 shall establish an appeals process through which holders
21 of a flood insurance policy may appeal the decisions, with
22 respect to claims, proofs of loss, and loss estimates relat-
23 ing to such flood insurance policy, of—

24 (1) any insurance agent or adjuster, or insur-
25 ance company; or

1 (2) any employee or contractor of the Federal
2 Emergency Management Agency.

3 (b) **MINIMUM TRAINING AND EDUCATION REQUIRE-**
4 **MENTS.**—The Director shall continue to work with the in-
5 surance industry, State insurance regulators, and other in-
6 terested parties to implement the minimum training and
7 education standards for all insurance agents who sell flood
8 insurance policies, as such standards were determined by
9 the Director in the notice published in the Federal Reg-
10 ister on September 1, 2005 (70 Fed. Reg. 52117) pursu-
11 ant to section 207 of the Bunning-Bereuter-Blumenauer
12 Flood Insurance Reform Act of 2004 (42 U.S.C. 4011
13 note).

14 (c) **IMPLEMENTATION REPORTS.**—

15 (1) **OVERALL IMPLEMENTATION OF REFORM**
16 **ACT OF 2004.**—Not later than 3 months after the
17 date of the enactment of this Act, the Director shall
18 submit a report to the Congress—

19 (A) describing the implementation of each
20 provision of the Bunning-Bereuter-Blumenauer
21 Flood Insurance Reform Act of 2004 (Public
22 Law 108–264; 118 Stat. 712); and

23 (B) identifying each regulation, order, no-
24 tice, and other material issued by the Director
25 in implementing each provision of that Act.

1 (2) IMPLEMENTATION OF APPEALS PROCESS.—

2 (A) IN GENERAL.—Not later than 30 days
3 after the date of enactment of this Act, and
4 every 30 days thereafter until final establish-
5 ment of the appeals process required under sec-
6 tion 205 of the Bunning-Bereuter-Blumenauer
7 Flood Insurance Reform Act of 2004 (42
8 U.S.C. 4011 note), the Director shall submit a
9 report to the Congress describing the implemen-
10 tation of such appeals process.

11 (B) CONTENT OF REPORT.—Each report
12 required under subparagraph (A) shall in-
13 clude—

14 (i) dates and descriptions of actions
15 taken by the Director to establish the ap-
16 peals process;

17 (ii) dates and descriptions of all com-
18 munications to the Congress by the Direc-
19 tor concerning the establishment of such
20 process;

21 (iii) explanations of any statutory or
22 implied deadlines that have not been met;
23 and

24 (iv) an estimate of when any regula-
25 tion, order, notice, or other material will be

1 issued by the Director in establishing such
2 process.

3 **SEC. 28. ADDITIONAL AUTHORITY OF FEMA TO COLLECT**
4 **INFORMATION ON CLAIMS PAYMENTS.**

5 (a) IN GENERAL.—The Director shall collect, from
6 property and casualty insurance companies that are au-
7 thorized by the Director to participate in the Write Your
8 Own program any information and data needed to deter-
9 mine the accuracy of the resolution of flood claims filed
10 on any property insured with a standard flood insurance
11 policy obtained under the program that was subject to a
12 flood.

13 (b) TYPE OF INFORMATION TO BE COLLECTED.—
14 The information and data to be collected under subsection
15 (a) may include—

16 (1) any adjuster estimates made as a result of
17 flood damage, and if the insurance company also in-
18 sures the property for wind damage—

19 (A) any adjuster estimates for both wind
20 and flood damage;

21 (B) the amount paid to the property owner
22 for wind and flood claims;

23 (C) the total amount paid to the policy-
24 holder for damages as a result of the event that
25 caused the flooding and other losses;

1 (2) any amounts paid to the policyholder by the
2 insurance company for damages to the insured prop-
3 erty other than flood damages; and

4 (3) the total amount paid to the policyholder by
5 the insurance company for all damages incurred to
6 the insured property as a result of the flood.

7 **SEC. 29. EXPENSE REIMBURSEMENTS OF INSURANCE COM-**
8 **PANIES.**

9 (a) SUBMISSION OF BIENNIAL REPORTS.—

10 (1) TO THE DIRECTOR.—Not later than 20
11 days after the date of enactment of this Act, each
12 property and casualty insurance company that is au-
13 thorized by the Director to participate in the Write
14 Your Own program shall submit to the Director any
15 biennial report prepared in the prior 5 years by such
16 company.

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

21 (3) NOTICE TO CONGRESS OF FAILURE TO COM-
22 PLY.—The Director shall notify and report to the
23 Committee on Banking, Housing, and Urban Affairs
24 of the Senate and the Committee on Financial Serv-
25 ices of the House of Representatives on any property

1 and casualty insurance company participating in the
2 Write Your Own program that failed to submit its
3 biennial reports as required under paragraph (1).

4 (b) FEMA RULEMAKING ON EXPENSES OF WYO
5 PROGRAM.—Not later than 180 days after the date of en-
6 actment of this Act, the Director shall conduct a rule-
7 making proceeding to devise a data collection methodology
8 to allow the Federal Emergency Management Agency to
9 collect consistent information on the expenses (including
10 the operating and administrative expenses for adjustment
11 of claims) of property and casualty insurance companies
12 participating in the Write Your Own program for selling,
13 writing, and servicing, standard flood insurance policies.

14 (c) SUBMISSION OF EXPENSE REPORTS.—Not later
15 than 60 days after the effective date of the final rule es-
16 tablished pursuant to subsection (b), each property and
17 casualty insurance company participating in the Write
18 Your Own program shall submit a report to the Director
19 that details for the prior 5 years the expense levels of each
20 such company for selling, writing, and servicing standard
21 flood insurance policies based on the methodologies estab-
22 lished under subsection (b).

23 (d) FEMA RULEMAKING ON REIMBURSEMENT OF
24 EXPENSES UNDER THE WYO PROGRAM.—Not later than
25 15 months after the date of enactment of this Act, the

1 Director shall conduct a rulemaking proceeding to formu-
2 late revised expense reimbursements to property and cas-
3 ualty insurance companies participating in the Write Your
4 Own program for their expenses (including their operating
5 and administrative expenses for adjustment of claims) in
6 selling, writing, and servicing standard flood insurance
7 policies, including how such companies shall be reimbursed
8 in both catastrophic and non-catastrophic years. Such re-
9 imbursements shall be structured to ensure reimburse-
10 ments track the actual expenses, including standard busi-
11 ness costs and operating expenses, of such companies as
12 close as practicably possible.

13 (e) REPORT OF THE DIRECTOR.—Not later than 60
14 days after the effective date of any final rule established
15 pursuant to subsection (b) or subsection (d), the Director
16 shall submit to the Committee on Banking, Housing, and
17 Urban Affairs of the Senate and the Committee on Finan-
18 cial Services of the House of Representatives a report con-
19 taining—

20 (1) the specific rationale and purposes of such
21 rule;

22 (2) the reasons for the adoption of the policies
23 contained in such rule; and

24 (3) the degree to which such rule accurately
25 represents the true operating costs and expenses of

1 property and casualty insurance companies partici-
2 pating in the Write Your Own program.

3 (f) GAO STUDY AND REPORT ON EXPENSES OF
4 WYO PROGRAM.—

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

9 (A) conduct a study on the efficacy, ade-
10 quacy, and sufficiency of the final rules estab-
11 lished pursuant to subsections (b) and (d); and

12 (B) report to the Committee on Banking,
13 Housing, and Urban Affairs of the Senate and
14 the Committee on Financial Services of the
15 House of Representatives on the findings of the
16 study conducted under subparagraph (A).

17 (2) GAO AUTHORITY.—In conducting the study
18 and report required under paragraph (1), the Comp-
19 troller General—

20 (A) may use any previous findings, studies,
21 or reports that the Comptroller General pre-
22 viously completed on the Write Your Own pro-
23 gram;

24 (B) shall determine if—

1 (i) the final rules established pursuant
2 to subsections (b) and (d) allow the Fed-
3 eral Emergency Management Agency to
4 access adequate information regarding the
5 actual expenses of property and casualty
6 insurance companies participating in the
7 Write Your Own program; and

8 (ii) the actual reimbursements paid
9 out under the final rule established in sub-
10 section (d) accurately reflect the expenses
11 reported by property and casualty insur-
12 ance companies participating in the Write
13 Your Own program, including the standard
14 business costs and operating expenses of
15 such companies; and

16 (C) shall analyze the effect of such rules
17 on the level of participation of property and
18 casualty insurers in the Write Your Own pro-
19 gram.

20 **SEC. 30. STUDIES AND REPORTS.**

21 (a) REPORT ON EXPANDING THE NATIONAL FLOOD
22 INSURANCE PROGRAM.—Not later than 1 year after the
23 date of the enactment of this Act, the Comptroller General
24 of the United States shall conduct a study and submit a
25 report to the Committee on Banking, Housing, and Urban

1 Affairs of the Senate and the Committee on Financial
2 Services of the House of Representatives, on—

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

5 (A) a residential structure up to the max-
6 imum available coverage amount, as established
7 in section 61.6 of title 44, Code of Federal Reg-
8 ulations, of—

9 (i) \$250,000 for the structure; and

10 (ii) \$100,000 for the contents of such
11 structure; or

12 (B) a commercial structure up to the max-
13 imum available coverage amount, as established
14 in section 61.6 of title 44, Code of Federal Reg-
15 ulations, of \$500,000;

16 (2) the increased losses the National Flood In-
17 surance Program would have sustained during the
18 2004 and 2005 hurricane season if the National
19 Flood Insurance Program had insured all policy-
20 holders up to the maximum conforming loan limit
21 for fiscal year 2006 of \$417,000, as established
22 under section 302(b)(2) of the Federal National
23 Mortgage Association Charter Act (12 U.S.C.
24 1717(b)(2));

1 (3) the availability in the private marketplace of
2 flood insurance coverage in amounts that exceed the
3 current limits of coverage amounts established in
4 section 61.6 of title 44, Code of Federal Regula-
5 tions; and

6 (4) what effect, if any—

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

12 (B) reducing the current limits of coverage
13 amounts established in section 61.6 of title 44,
14 Code of Federal Regulations, would have on the
15 ability of private insurers to provide sufficient
16 flood insurance coverage to effectively replace
17 the current level of flood insurance coverage
18 being provided under the National Flood Insur-
19 ance Program.

20 (b) REPORT OF THE DIRECTOR ON ACTIVITIES
21 UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—

22 (1) IN GENERAL.—The Director shall, on an
23 annual basis, submit a full report on the operations,
24 activities, budget, receipts, and expenditures of the
25 National Flood Insurance Program for the preceding

1 12-month period to the Committee on Banking,
2 Housing, and Urban Affairs of the Senate and the
3 Committee on Financial Services of the House of
4 Representatives.

5 (2) TIMING.—Each report required under para-
6 graph (1) shall be submitted to the committees de-
7 scribed in paragraph (1) not later than 3 months
8 following the end of each fiscal year.

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

11 (A) the current financial condition and in-
12 come statement of the National Flood Insur-
13 ance Fund established under section 1310 of
14 the National Flood Insurance Act of 1968 (42
15 U.S.C. 4017), including—

16 (i) premiums paid into such Fund;

17 (ii) policy claims against such Fund;

18 and

19 (iii) expenses in administering such
20 Fund;

21 (B) the number and face value of all poli-
22 cies issued under the National Flood Insurance
23 Program that are in force;

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

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

4 (i) hurricane related damage; and

5 (ii) nonhurricane related damage;

6 (E) the amounts made available by the Di-
7 rector for mitigation assistance under section
8 1366(e)(5) of the National Flood Insurance Act
9 of 1968 (42 U.S.C. 4104c(e)(5)) for the pur-
10 chase of properties substantially damaged by
11 flood for that fiscal year, and the actual num-
12 ber of flood damaged properties purchased and
13 the total cost expended to purchase such prop-
14 erties;

15 (F) the estimate of the Director as to the
16 average historical loss year, and the basis for
17 that estimate;

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

22 (H) the average—

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

1 (ii) premium per flood insurance pol-
2 icy; and

3 (iii) loss per flood insurance policy;
4 and

5 (I) the number of claims involving dam-
6 ages in excess of the maximum amount of flood
7 insurance available under the National Flood
8 Insurance Program and the sum of the amount
9 of all damages in excess of such amount.

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

17 (1) composition of the remaining pre-FIRM
18 structures that are explicitly receiving discounted
19 premium rates under section 1307 of the National
20 Flood Insurance Act of 1968 (42 U.S.C. 4104), in-
21 cluding the historical basis for the receipt of such
22 subsidy and whether such subsidy has outlasted its
23 purpose;

24 (2) number and fair market value of such struc-
25 tures;

1 (3) respective income level of each owner of
2 such structure;

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

7 (5) total losses incurred by such structures
8 since the establishment of the National Flood Insur-
9 ance Program compared to the total losses incurred
10 by all structures that are charged a nondiscounted
11 premium rate;

12 (6) total cost of foregone premiums since the
13 establishment of the National Flood Insurance Pro-
14 gram, as a result of the subsidies provided to such
15 structures;

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

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

1 (9) the most efficient way to eliminate the sub-
2 sidy to such structures.

3 (d) GAO REVIEW OF FEMA CONTRACTORS.—The
4 Comptroller General of the United States, in conjunction
5 with the Department of Homeland Security’s Inspectors
6 general Office, shall—

7 (1) conduct a review of the 3 largest contrac-
8 tors the Director uses in administering the National
9 Flood Insurance Program; and

10 (2) not later than 18 months after the date of
11 enactment of this Act, submit a report on the find-
12 ings of such review to the Director, the Committee
13 on Banking, Housing, and Urban Affairs of the Sen-
14 ate, and the Committee on Financial Services of the
15 House of Representatives.