

TWO FLOODS AND YOU ARE OUT OF THE TAXPAYERS'
POCKET ACT OF 2003

SEPTEMBER 5, 2003.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 253]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 253) to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Two Floods and You Are Out of the Taxpayers’ Pocket Act of 2003”.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the national flood insurance program (A) identifies the flood risk, (B) provides flood risk information to the public, (C) encourages State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses, and (D) makes flood insurance available on a nationwide basis that would otherwise not be available, to accelerate recovery from floods, mitigate future losses, save lives, and reduce the personal and national costs of flood disasters;

(2) the national flood insurance program insures approximately 4,400,000 policyholders;

(3) approximately 48,000 properties currently insured under the program have experienced, within a 10-year period, two or more flood losses where each such loss exceeds the amount \$1,000;

(4) approximately 10,000 of these repetitive-loss properties have experienced either two or three losses that cumulatively exceed building value or four or more losses, each exceeding \$1,000;

(5) repetitive-loss properties constitute a significant drain on the resources of the national flood insurance program, costing about \$200,000,000 annually;

(6) repetitive-loss properties comprise approximately one percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses;

(7) the vast majority of repetitive-loss properties were built before local community implementation of floodplain management standards under the program and thus are eligible for subsidized flood insurance;

(8) while some property owners take advantage of the program allowing subsidized flood insurance without requiring mitigation action, others are trapped in a vicious cycle of suffering flooding, then repairing flood damage, then suffering flooding, without the means to mitigate losses or move out of harm’s way;

(9) mitigation of repetitive-loss properties through buyouts, elevations, relocations, or flood-proofing will produce savings for policyholders under the program and for Federal taxpayers through reduced flood insurance losses and reduced Federal disaster assistance;

(10) a strategy of making mitigation offers aimed at high-priority repetitive-loss properties and shifting more of the burden of recovery costs to property owners who choose to remain vulnerable to repetitive flood damage can encourage property owners to take appropriate actions that reduce loss of life and property damage and benefit the financial soundness of the program; and

(11) the method for addressing repetitive-loss properties should be flexible enough to take into consideration legitimate circumstances that may prevent an owner from taking a mitigation action.

SEC. 3. EXTENSION OF PROGRAM AND CONSOLIDATION OF AUTHORIZATIONS.

The National Flood Insurance Act of 1968 is amended as follows:

(1) **BORROWING AUTHORITY.**—In the first sentence of section 1309(a) (42 U.S.C. 4016(a)), by striking “through December” and all that follows through “, and” and inserting the following: “through the date specified in section 1319, and”.

(2) **AUTHORITY FOR CONTRACTS.**—In section 1319 (42 U.S.C. 4026), by striking “after” and all that follows and inserting “after September 30, 2008.”.

(3) **EMERGENCY IMPLEMENTATION.**—In section 1336(a) (42 U.S.C. 4056(a)), by striking “during the period” and all that follows through “in accordance” and inserting “during the period ending on the date specified in section 1319, in accordance”.

(4) **AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.**—In section 1376(c) (42 U.S.C. 4127(c)), by striking “through” and all that follows and inserting the following: “through the date specified in section 1319, for studies under this title.”.

SEC. 4. ESTABLISHMENT OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

(a) **IN GENERAL.**—The National Flood Insurance Act of 1968 is amended by inserting after section 1361 (42 U.S.C. 4102) the following new section:

“PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES

“SEC. 1362. (a) AUTHORITY.—To the extent amounts are made available for use under this section, the Director may, subject to the limitations of this section, provide financial assistance to States and communities for taking actions with respect to severe repetitive loss properties (as such term is defined in subsection (b)) to mitigate flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

“(b) SEVERE REPETITIVE LOSS PROPERTY.—For purposes of this section, the term ‘severe repetitive loss property’ has the following meaning:

“(1) SINGLE-FAMILY PROPERTIES.—In the case of a property consisting of one to four 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 four or more separate claims payments have been made under flood insurance coverage under this title before the date of the enactment of the Two Floods and You Are Out of the Taxpayers’ Pocket Act of 2003, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000;

“(ii) for which four or more separate claims payments have been made under flood insurance coverage under this title after the date of the enactment of the Two Floods and You Are Out of the Taxpayers’ Pocket Act of 2003, with the amount of each such claim exceeding \$3,000, and with the cumulative amount of such claims payments exceeding \$15,000; or

“(iii) for which at least two 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 five or more residences, such term shall have such meaning as the Director shall by regulation provide.

“(c) ELIGIBLE ACTIVITIES.—Amounts provided under this section to a State or community may be used only for the following activities:

“(1) MITIGATION ACTIVITIES.—To carry out mitigation activities that reduce flood damages to severe repetitive loss properties, including elevation, relocation, demolition, and floodproofing of structures, and minor physical localized flood control projects.

“(2) PURCHASE.—To purchase severe repetitive loss properties, subject to subsection (f).

“(d) MATCHING REQUIREMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Director may not provide assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds for carrying out the eligible activities to be funded with such assistance amounts.

“(2) WAIVER.—

“(A) AUTHORITY.—Subject to subparagraph (B), the Director may waive the limitation under paragraph (1) for any State, and for the communities located in that State, with respect to a year, if, for such year—

“(i) 5 percent or more of the total number of severe repetitive loss properties in the United States are located in such State; and

“(ii) the State submits a plan to the Director specifying how the State intends to reduce the number of severe repetitive loss properties and the Director determines, after consultation with State and technical experts, that the State has taken actions to reduce the number of such properties.

“(B) LIMITATION.—In each waiver under subparagraph (A), the Director may waive the limitation under paragraph (1) only to the extent that the State or community involved is required to contribute, for each severe repetitive loss property for which grant amounts are provided, not less than 10 percent of the cost of the activities for such properties that are to be funded with grant amounts.

“(3) NON-FEDERAL FUNDS.—For purposes of this subsection, the term ‘non-Federal funds’ includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the eligible activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities

(at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

“(e) STANDARDS FOR MITIGATION OFFERS.—The program under this section for providing assistance for eligible activities for severe repetitive loss properties shall be subject to the following limitations:

“(1) PRIORITY.—In determining the properties for which to provide assistance for eligible activities under subsection (c), the Director shall provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.

“(2) OFFERS.—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties to take eligible activities under subsection (c) as soon as is practicable.

“(3) NOTICE.—Upon making an offer to provide assistance with respect to a property for any eligible activity under subsection (c), the State or community shall notify each holder of a recorded interest on the property of such offer and activity.

“(f) PURCHASE OFFERS.—A State or community may take action under subsection (c)(2) to purchase a severe repetitive loss property only if the following requirements are met:

“(1) USE OF PROPERTY.—The State or community enters into an agreement with the Director that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of clauses (i) and (ii) of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b).

“(2) PURCHASE PRICE.—The amount of purchase offer is not less than the greatest of—

“(A) the amount of the original purchase price of the property, when purchased by the holder of the current policy of flood insurance under this title;

“(B) the total amount owed, at the time the offer to purchase is made, under any loan secured by a recorded interest on the property; and

“(C) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property.

“(g) INCREASE TO ACTUARIAL RATES IN CASES OF REFUSAL TO MITIGATE.—

“(1) IN GENERAL.—In any case in which the owner of a severe repetitive loss property refuses an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property, the Director shall—

“(A) notify each holder of a recorded interest on the property of such refusal; and

“(B) increase the chargeable risk premium rate for flood insurance coverage under this title for the property to an amount equal to the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) and apply appropriate loss deductibles.

“(2) APPEALS.—

“(A) IN GENERAL.—Any owner of a severe repetitive loss property may appeal a determination of the Director to take action under paragraph (1)(B) with respect to such property, based only upon the following grounds:

“(i) As a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent.

“(ii) As a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of historic places will be interfered with, impaired, or disrupted.

“(iii) The flooding that resulted in the flood insurance claims described in subsection (b)(2) for the property resulted from significant actions by a third party in violation of Federal, State, or local law, ordinance, or regulation.

“(iv) In purchasing the property, the owner relied upon flood insurance rate maps of the Federal Emergency Management Agency that were current at the time and did not indicate that the property was located in an area having special flood hazards.

“(B) PROCEDURE.—An appeal under this paragraph of a determination of the Director shall be made by filing, with the Director, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the Director shall select, from a list of independent third parties compiled by the Director for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such

third party shall review the determination of the Director and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the Director shall stay the applicability of the rates established pursuant to paragraph (1).

“(C) EFFECT OF FINAL DETERMINATION.—In an appeal under this paragraph—

“(i) if a final determination is made that the grounds under subparagraph (A) exist, the third party hearing such appeal shall make a determination of how much to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1) and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount; and

“(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the Director shall promptly increase the chargeable risk premium rate for such property to the amount established pursuant to paragraph (1) and shall collect from the property owner the amount necessary to cover the stay of the applicability of such increased rates during the pendency of the appeal.

“(D) COSTS.—If the third party hearing an appeal under this paragraph is compensated for such service, the costs of such compensation shall be borne—

“(i) by the owner of the property requesting the appeal, if the final determination in the appeal is that the grounds under subparagraph (A) do not exist; and

“(ii) by the National Flood Insurance Fund, if such final determination is that the grounds under subparagraph (A) do exist.

“(E) REPORT.—Not later than 6 months after the date of the enactment of the Two Floods and You Are Out of the Taxpayers’ Pocket Act of 2003, the Director shall submit a report to the House of Representatives and the Senate describing the rules, procedures, and administration for appeals under this paragraph.

“(h) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the Director determines that a fraudulent claim was made under flood insurance coverage under this title for a severe repetitive loss property, the Director may—

“(1) cancel the policy and deny the provision to such policyholder of any new flood insurance coverage under this title for the property; or

“(2) refuse to renew the policy with such policyholder upon expiration and deny the provision of any new flood insurance coverage under this title to such policyholder for the property.

“(i) FUNDING.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to provide assistance under this section in each of fiscal years 2004, 2005, 2006, 2007, and 2008, except that the amount so used in each such fiscal year may not exceed \$40,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

“(j) TERMINATION.—The Director may not provide assistance under this section to any State or community after September 30, 2008.”.

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

(1) in paragraph (7), by striking “and” at the end; and

(2) by striking paragraph (8) and inserting the following new paragraph:

“(8) for financial assistance under section 1362 to States and communities for taking actions under such section with respect to severe repetitive loss properties, but only to the extent provided in section 1362(i); and”.

SEC. 5. ENHANCED AUTHORITY IN FLOOD MITIGATION ASSISTANCE PROGRAM.

(a) MITIGATION ASSISTANCE FOR REPETITIVE CLAIMS PROPERTIES.—Section 1366(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

“(4) STANDARD FOR ASSISTANCE.—In providing grants under this subsection for mitigation activities, the Director shall give first priority for funding to repetitive claims properties, or to such subsets of such properties as the Director may establish pursuant to subsection (n)(2), that the Director determines are the most cost-effective for the taxpayers of the United States, are in the best

interests of the National Flood Insurance Fund, and for which matching amounts under subsection (f) are available.”; and

(2) by adding at the end the following new paragraph:

“(6) NOTICE.—Upon making an offer to conduct any eligible mitigation activity under paragraph (5) with respect to a repetitive claims property or a severe repetitive loss property (as such term is defined in section 1362(b)) using amounts provided under this section, the State or community shall notify each holder of a recorded interest on the property of such offer and activity.”

(b) LIMITATIONS ON PROPERTY ACQUISITION.—Section 1366(e)(5)(C) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(e)(5)(C)) is amended by striking “for public use, as the Director determines is consistent with sound land management and use in such area” and inserting the following: “except that amounts provided under this section may not be used for acquisition of any property unless—

“(i) the State or community enters into an agreement with the Director that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of clauses (i) and (ii) of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b); and

“(ii) the amount of purchase offer is not less than the greatest of—

“(I) the amount of the original purchase price of the property, when purchased by the holder of the current policy of flood insurance under this title;

“(II) the total amount owed, at the time the offer to purchase is made, under any loan secured by a recorded interest on the property; and

“(III) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property”.

(c) WAIVER OF LIMITATIONS ON ASSISTANCE.—Section 1366(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(f)) is amended by striking paragraph (3) and inserting the following new paragraph:

“(3) WAIVER.—The Director may waive the dollar amount limitations under paragraphs (1) and (2) for any State or community—

“(A) for any 5-year period when a major disaster or emergency declared by the President (pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)) as a result of flood conditions is in effect with respect to areas in the State or community; or

“(B) whenever the Director determines that repetitive claims properties are located within such State or community and that waiver of the cost limitations is cost-effective and in the best interests of the National Flood Insurance Fund.”.

(d) PENALTIES FOR REFUSAL TO MITIGATE AND FRAUDULENT CLAIMS.—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended—

(1) by striking subsection (k);

(2) by redesignating subsection (j) as subsection (l); and

(3) by inserting after subsection (i) the following new subsections:

“(j) INCREASE TO ACTUARIAL RATES IN CASES OF REFUSAL TO MITIGATE.—

“(1) IN GENERAL.—In any case in which the owner of a repetitive claims property refuses an offer of a State or community to conduct, with respect to such property, mitigation activities under subsection (e) under a mitigation plan approved by the Director, the Director shall—

“(A) notify each holder of a recorded interest on the property of such refusal; and

“(B) increase the chargeable risk premium rate for flood insurance coverage under this title for the property to an amount equal to the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) and apply appropriate loss deductibles.

“(2) APPEALS.—

“(A) MITIGATION ACTIONS.—Any owner of a repetitive claims property may appeal a determination of the Director to take action under paragraph (1)(B) with respect to such property, based only upon the following grounds:

“(i) As a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent.

“(ii) As a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object in-

cluded in, or eligible for inclusion in, the National Register of historic places will be interfered with, impaired, or disrupted.

“(iii) The flooding that resulted in the flood insurance claims payments described in subsection (n)(2) for the property resulted from significant actions by a third party in violation of Federal, State, or local law, ordinance, or regulation.

“(iv) In purchasing the property, the owner relied upon flood insurance rate maps of the Federal Emergency Management Agency that were current at the time and did not indicate that the property was located in an area having special flood hazards.

“(B) PROCEDURE.—An appeal under this paragraph of a determination of the Director shall be made by filing, with the Director, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the Director shall select, from a list of independent third parties compiled by the Director for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such third party shall review the determination of the Director and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the Director shall stay the applicability of the rates established pursuant to paragraph (1).

“(C) EFFECT OF FINAL DETERMINATION.—In an appeal under this paragraph—

“(i) if a final determination is made that the grounds under subparagraph (A) exist, the third party hearing such appeal shall make a determination of how much to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1) and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount; and

“(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the Director shall promptly increase the chargeable risk premium rate for such property to the amount established pursuant to paragraph (1) and shall collect from the property owner the amount necessary to cover the stay of the applicability of such increased rates during the pendency of the appeal.

“(D) COSTS.—If the third party hearing an appeal under this paragraph is compensated for such service, the costs of such compensation shall be borne—

“(i) by the owner of the property requesting the appeal, if the final determination in the appeal is that the grounds under subparagraph (A) do not exist; and

“(ii) by the National Flood Mitigation Fund, if such final determination is that the grounds under subparagraph (A) do exist.

“(E) REPORT.—Not later than 6 months after the date of the enactment of the Two Floods and You Are Out of the Taxpayers’ Pocket Act of 2003, the Director shall submit a report to the House of Representatives and the Senate describing the rules, procedures, and administration for appeals under this paragraph, which shall be submitted together with the report required under section 1362(g)(2)(E).

“(k) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the Director determines that a fraudulent claim was made under flood insurance coverage under this title for a repetitive claims property, the Director may—

“(1) cancel the policy and deny the provision to such policyholder of any new flood insurance coverage under this title for the property; or

“(2) refuse to renew the policy with such policyholder upon expiration and deny the provision of any new flood insurance coverage under this title to such policyholder for the property.”.

(e) COORDINATION WITH STATES AND COMMUNITIES.—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following new subsection:

“(m) COORDINATION WITH STATES AND COMMUNITIES.—The Director shall, in consultation and coordination with States and communities:

“(1) IDENTIFICATION OF REPETITIVE CLAIMS PROPERTIES.—Identify repetitive claims properties and properties at risk of becoming repetitive claims properties.

“(2) MANAGEMENT OF 100-YEAR FLOODPLAIN.—Take such actions as are appropriate to encourage and improve participation of owners of properties that are

not located in areas having special flood hazards but are located within the 100-year floodplain.”.

(f) DEFINITION OF REPETITIVE CLAIMS PROPERTY.—Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) is amended by adding at the end the following new subsection:

“(n) DEFINITIONS.—For purposes of this section:

“(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 to develop and administer a mitigation plan and manage projects by political subdivisions, all of which meet the requirements of subparagraph (A).

“(2) REPETITIVE CLAIMS PROPERTY.—The term ‘repetitive claims property’ means, without regard to the ownership of the property, a property with respect to which claim payments for losses have been made—

“(A) under flood insurance coverage under this title,

“(B) on more than one occasion within a 10-year period, and

“(C) for which the cumulative value of the amount by which such claims exceed the amount of any applicable deductible under such coverage is \$5,000 or more,

The Director may, by regulation, further define subsets of repetitive claims properties for purposes of subsection (e)(4).”.

(g) FUNDING.—Section 1367(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

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

“(1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding \$20,000,000;

“(2) in each of fiscal years 2004, 2005, 2006, 2007, and 2008, in addition to amounts under paragraph (1), amounts from the National Flood Insurance Fund not exceeding \$40,000,000, to remain available until expended, except that—

“(A) such amounts shall be used only under section 1366 for mitigation activities for repetitive claims properties (as such term is defined in section 1366(n)); and

“(B) notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title; and”.

SEC. 6. FEMA AUTHORITY TO FUND MITIGATION ACTIVITIES FOR INDIVIDUAL REPETITIVE CLAIMS PROPERTIES.

(a) IN GENERAL.—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 new section:

“GRANTS FOR REPETITIVE INSURANCE CLAIMS PROPERTIES

“SEC. 1323. (a) IN GENERAL.—The Director may provide funding for mitigation actions that reduce flood damages to repetitive claims properties, but only if the Director determines that—

“(1) such activities are in the best interest of the National Flood Insurance Fund; and

“(2) such activities can not be funded under the program under section 1366 because—

“(A) the requirements of section 1366(g) are not being met by the State or community in which the property is located; or

“(B) the State or community does not have the capacity to manage such activities.

“(b) PRIORITY FOR WORST-CASE PROPERTIES.—In determining properties for which funding is to be provided under this section, the Director shall give priority based on the amount of losses to the National Flood Insurance Fund that claims for a property have caused or are reasonably expected to cause.

“(c) DEFINITION.—For purposes of this section, the term ‘repetitive claims property’ has the meaning given such term in section 1366(n).”.

(b) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND AMOUNTS.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended by adding at the end the following new paragraph:

“(9) for funding, not to exceed \$10,000,000 in any fiscal year, for mitigation actions under section 1323, except that, notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.”.

SEC. 7. ACTUARIAL RATE PROPERTIES.

(a) IN GENERAL.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by striking subsection (c) and inserting the following new subsection:

“(c) ACTUARIAL RATE PROPERTIES.—Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

“(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e).

“(2) PROPERTIES REFUSING MITIGATION ASSISTANCE.—Any property for which the Director has taken action under section 1362(g)(1) or 1366(i)(1).

“(3) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.”.

(b) INAPPLICABILITY OF ANNUAL LIMITATIONS ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended by striking “Notwithstanding” and inserting “Except with respect to properties described under paragraph (2) or (3) of subsection (c) and notwithstanding”.

SEC. 8. REMOVING REPETITIVE INSURANCE CLAIMS PROPERTIES FROM FEDERAL DISASTER ASSISTANCE RESPONSIBILITY.

(a) IN GENERAL.—Section 582 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 5154a) is amended—

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

(2) by inserting after subsection (c) the following new subsection:

“(d) UNMITIGATED REPETITIVE INSURANCE CLAIMS PROPERTIES.—Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) for repair, replacement, or restoration for damage to a property located in such area if—

“(1) such property is a repetitive claims property (as such term is defined in section 1366(n) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(o)) or a severe repetitive loss property (as such term is defined in section 1362(b) of such Act (42 U.S.C. 4103(b))); and

“(2) in accordance with such requirements as the Director may establish, mitigation assistance under section 1362 or 1366 of the National Flood Insurance Act of 1968 has been offered to the owner of the property, before or after the occurrence of the flood loss events, which was refused by the owner.”.

(b) EFFECTIVE DATE.—Notwithstanding subsection (f) of section 582 of the National Flood Insurance Reform Act of 1994 (as so redesignated by paragraph (1)(A) of this subsection), the amendment made by paragraph (1) shall apply to disasters declared after the date of the enactment of this Act.

SEC. 9. ELECTRONIC DATABASE OF REPETITIVE CLAIMS PROPERTIES.

Section 1364 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a) is amended by adding at the end the following new subsection:

“(d) ELECTRONIC DATABASE OF REPETITIVE CLAIMS PROPERTIES.—The Director may, if the Director determines such action is feasible, establish and maintain a database identifying by location and address all repetitive claims properties (as such term is defined in section 1366(n)), repetitive loss structures (as such term is defined in section 1370), and severe repetitive loss properties (as such term is defined in section 1362(b)). If established, the Director shall make the database available to the public in a format that may be searched electronically. Such a database shall not include any information regarding ownership of properties.”.

SEC. 10. REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.

Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended by adding at the end the following new subsection:

“(c) REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.—

“(1) COMMUNITY PARTICIPATION.—The placement of any mobile home on any site shall not affect the eligibility of any community to participate in the flood insurance program under this title and the Flood Disaster Protection Act of 1973 (notwithstanding that such placement may fail to comply with any elevation or flood damage mitigation requirements), if—

“(A) such mobile home was previously located on such site;

“(B) such mobile home was relocated from such site because of flooding that threatened or affected such site; and

“(C) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

“(2) DEFINITION.—For purposes of this subsection, the term ‘mobile home’ has the meaning given such term in the law of the State in which the mobile home is located.”.

SEC. 11. REITERATION OF FEMA RESPONSIBILITY TO MAP MUDSLIDES.

As directed in section 1360(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(b)), the Director of the Federal Emergency Management Agency is again directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of such section 1360, in order to make known the degree of hazard within each such zone at the earliest possible date.

PURPOSE AND SUMMARY

H.R. 253, the Two Floods and You are Out of the Taxpayer’s Pocket Act of 2003, extends the authorization of the National Flood Insurance Program (NFIP) from December 31, 2003 to September 30, 2008. This measure creates a pilot program to mitigate the severe repetitive loss properties in the NFIP and sets up an equitable process for the treatment of policyholders who refuse mitigation. This legislation also uses the existing Flood Mitigation Assistance Program (FMA) to further mitigate repetitive claims properties. Finally, H.R. 253 authorizes funds to be transferred from the National Flood Insurance Fund into the National Mitigation Fund for both the pilot program and the FMA program for purposes of mitigation.

BACKGROUND AND NEED FOR LEGISLATION

The NFIP was created as part of the National Flood Insurance Act of 1968. Prior to that time, insurance companies generally did not offer coverage for flood disasters because of the high risks involved. National flood insurance is available in almost 20,000 communities across the United States and its territories. In order to participate in the program, communities must agree to abide by certain hazard mitigation provisions. These provisions include adopting building codes that require new floodplain structures to be protected against flooding or elevated above the 100-year floodplain.

The NFIP insures approximately 4.4 million policyholders. Approximately 48,000 properties currently insured have experienced, within a ten-year period, two or more flood claims where each exceeds \$1,000 over the applicable deductible. These properties, which are considered as repetitive loss structures by the Federal Emergency Management Agency (FEMA), cost the NFIP about \$200 million annually.

Approximately 10,000 of these properties currently insured under the program have either two or three claims that cumulatively exceed the building value or four or more claims, each exceeding \$1,000 over the applicable deductible. These properties, while comprising approximately one percent of the currently insured properties, are expected to account for 25 to 30 percent of claims paid. The vast majority of repetitive-loss properties were built before community implementation of floodplain management standards and are thus eligible for subsidized flood insurance which is below the actuarial risk rate. FEMA has neither the funds nor the statutory tools to mitigate these repetitive loss properties.

The NFIP has been amended or reauthorized dozens of times since the late 1960s as part of America's public policy response to flooding. However, the 107th Congress adjourned at the end of November without extending FEMA's statutory authority to issue flood insurance policies beyond December 31, 2002. On January 13, 2002, the President signed into law bipartisan legislation, H.R. 11 (Public Law 108-3), which reauthorized the NFIP retroactively from January 1 through December 31, 2003. The NFIP was reauthorized for only one year so that potential changes to the program could be considered during 2003.

HEARINGS

No hearings were held on this legislation. However, the Subcommittee on Housing and Community Opportunity held a hearing on April 1, 2003 entitled "The National Flood Insurance Program: Review and Reauthorization." The following witnesses testified: The Honorable Richard H. Baker, M.C.; The Honorable Doug Bereuter, M.C.; The Honorable Earl Blumenauer, M.C.; Mr. Anthony Lowe, Mitigation Division Director and Flood Insurance Administrator, Department of Homeland Security; Mr. Chad Berginnis, Vice-Chair of the Association of State Floodplain Managers; Mr. Fletcher J. Wiley, Flood Insurance Task Force Chair of the Independent Insurance Agents and Brokers of America; Mr. Gerald Nielsen, Nielsen Law Firm, Metairie, Louisiana; and Mr. Rick Willetts, III, President and CEO, Cooperative Bank of Wilmington, North Carolina on behalf of America's Community Bankers.

COMMITTEE CONSIDERATION

On July 23, 2003, the Subcommittee on Housing and Community Opportunity was discharged from the further consideration of H.R. 253 by unanimous consent and the Committee on Financial Services met in open session to consider the bill. The Committee ordered the bill reported to the House with a favorable recommendation, with an amendment, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken in conjunction with the consideration of this legislation. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

The following amendments were considered:

An amendment in the nature of a substitute offered by Mr. Bereuter, no. 1, reauthorizing the National Flood Insurance Program through September 30, 2008 and setting forth policies as to how to address repetitive loss properties, was agreed to by a voice vote, as amended.

An amendment to the amendment in the nature of a substitute offered by Mr. Ney, no. 1a, clarifying the application of certain provisions, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute offered by Ms. Hooley of Oregon, no. 1b, reiterating the responsibility of FEMA to map mudslides, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute offered by Mr. Baker, no. 1c, increasing the thresholds necessary for a property to qualify as a severe repetitive loss for purposes of mitigation, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The Department of Homeland Security will use the authority in this legislation to dramatically reduce both severe repetitive loss properties and repetitive claims properties as defined in H.R. 253. The two main objectives are: the mitigation of designated properties so as to protect policyholders from the dangers of floods; and the enhancement of the long-term solvency of the NFIP.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 3, 2003.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 253, the Two Floods and You Are Out of the Taxpayers' Pocket Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kim Cawley.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 253—Two Floods and You Are Out of the Taxpayers Pocket Act of 2003

Summary: H.R. 253 would extend authority to operate the National Flood Insurance Program (NFIP) within the Department of Homeland Security (DHS) until 2008. Under current law, the program's authority expires on December 31, 2003. The bill also would establish a pilot program to give states and local communities financial assistance for mitigating severe repetitive loss properties (properties that have made four or more flood insurance claims exceeding \$5,000 each under the National Flood Insurance Program). The bill would authorize the appropriation of \$40 million a year over the 2004–2008 period for this new pilot program. H.R. 253 also would increase the amounts authorized to be appropriated for the existing flood mitigation program by \$40 million a year over the 2004–2008 period. Finally, the bill would authorize the appropriation of an additional \$10 million a year for mitigation of individual properties in states and communities that do not have the capacity to manage their own mitigation programs.

Assuming appropriation if the authorized amounts, CBO estimates that implementing the bill would cost \$315 million over the 2004–2008 period. Enacting H.R. 253 would affect direct spending, but CBO estimates that impact would be insignificant each year relative to the budget resolution baseline (which assumes the flood insurance program is extended).

H.R. 253 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State, local, and tribal governments may benefit from the grant program to reduce the number of claims made by certain property owners. Any costs associated with this program would be a condition of aid and thus would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 253 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION ¹					
Authorization level	90	90	90	90	90
Estimated outlays	18	45	72	90	90

¹ H.R. 253 also would reduce direct spending by less than \$1 million a year.

Basis of estimate: For this estimate, CBO assumes that H.R. 253 will be enacted early in fiscal year 2004 and that the authorized amounts will be appropriated each year. Estimates of outlays are based on historical spending patterns of similar programs and information from the Department of Homeland Security.

Spending subject to appropriation

H.R. 253 would authorize the appropriation of \$90 million a year over the 2004–2008 period and an additional \$10 million a year after 2008 for mitigation programs to address repetitive losses from floods. Assuming appropriation of the authorized amounts, CBO estimates that implementing this bill would cost \$315 million over the 2004–2008 period.

According to DHS, there are currently around 48,000 insured properties that have experienced multiple floods and would benefit from mitigation activities such as elevation, relocation, demolition, or flood-proofing. Mitigating those properties could result in fewer claims paid following a subsequent flood. According to DHS, it would take 10 to 12 years to realize sufficient savings to pay for the cost of mitigating a repetitive-loss property. CBO expects that this program would yield savings to the NFIP; however, no savings can be attributed to H.R. 253 because the size and duration of any mitigation program would depend on amounts provided in future appropriation acts.

Under the bill, if an owner of a property refuses to participate in federal mitigation programs, then the property would no longer be eligible for subsidized insurance premiums. Making the insurance rate actuarially sound would result in an increase in premiums collected to the federal government. (In addition, that same property owner who refuses mitigation would not be eligible for disaster relief funding if a subsequent flood damages their property.) The amount of any additional premiums collected under this provision would also depend on the parameters of the mitigation program which be determined in future appropriation acts and thus cannot be attributed to H.R. 253.

Direct spending

Reauthorization of the National Flood Insurance Program. H.R. 253 would reauthorize the NFIP through 2008. Consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act, which specifies that certain expiring programs should be assumed to continue for budget projection purposes, the baseline projections underlying the current Congressional budget resolution assume that the National Flood Insurance Program continues beyond its scheduled expiration date. Over the near term, CBO projects that premiums collected by the National Flood Insurance Fund equal claims paid from the fund. That assumption is used because, while projecting premiums paid to the NFIP is straightforward, the

level of claims paid in any year is a function of the incidence and severity of floods which cannot be projected on an annual basis. Over the long term, the NFIP is not considered to be actually sound because some properties receive subsidized insurance.

Actuarial Rate Properties. H.R. 253 would make certain federally owned coastal and river properties that are leased to nonfederal entities subject to actuarially sound insurance premiums. CBO estimates that this provision would increase the amount of premiums collected, but the increase would be less than \$1 million a year because of the small number of properties involved.

Intergovernmental and private-sector impact: H.R. 253 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal governments may benefit from the grant program to reduce the number of claims made by certain property owners. Any costs associated with this program would be a condition of aid and thus would be incurred voluntarily.

Estimate prepared by: Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the defense and general welfare of the United States), and clause 3 (relating to the power to regulate foreign and interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title

This section establishes the short title of the bill, the “Two Floods and You are Out of the Taxpayer’s Pocket Act of 2003.”

Section 2. Congressional Findings

This section provides certain findings by Congress regarding the need for the legislation.

Section 3. Extension of Program and Consolidation of Authorizations

This section amends the National Flood Insurance Act of 1968 by extending the National Flood Insurance Program through September 30, 2008.

Section 4. Establishment of Pilot Program for Mitigation of Severe Repetitive Loss Properties

This section amends the National Flood Insurance Act of 1968 by adding a new section 1362 which establishes a pilot program for the mitigation of severe repetitive loss properties (Pilot Program). Under this section, the Director of FEMA may provide financial assistance to States and communities for the mitigation of severe repetitive loss properties.

The legislation defines “severe repetitive loss properties” as properties (1) for which 4 or more separate NFIP flood insurance claims payments have been made prior to the date of the enactment of this legislation, with the amount of each claim exceeding \$5,000 with the cumulative amount of such claims payments exceeding \$20,000; (2) for which 4 or more separate NFIP claims payments have been made after the date of enactment of this legislation, with the amount of each claim exceeding \$3,000 with the cumulative amount of those claims payments exceeding \$15,000; or (3) for which 2 or more separate NFIP claims payments cumulatively exceed the value of the insured property.

The legislation also requires that the Director of FEMA provide mitigation offers for properties under the Pilot Program in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time. Mitigation activities include elevation, relocation, demolition, floodproofing of structures, minor physical localized flood control projects, and buyouts.

Severe repetitive loss properties will be charged actuarial based NFIP rates if the owner of the property has refused FEMA’s offer of flood mitigation measures, such as an elevation or buy-out. The Director is authorized to offer the policyholder a higher deductible for the flood insurance policy which would result in a lower premium payment if mitigation is refused.

Any owner of a severe repetitive loss property may appeal an increase to an actuarial rate of insurance to an independent third party. One of the grounds for appeal is that the owner of the property will not be able to purchase a replacement primary residence of comparable value that is functionally equivalent to their current residence.

Up to an additional \$40 million for fiscal years 2004, 2005, 2006, 2007, and 2008 may be transferred from the National Flood Insurance Fund to the National Flood Mitigation Fund for severe repetitive loss properties and will remain available until expended. The policyholders will not be subject to higher premium rates for flood insurance coverage because of this transfer from the insurance fund into the mitigation fund. As a matter of clarification, the policy service fee charged by FEMA for each policy also will not be increased because of this transfer.

It is the Committee’s intent that States and communities that receive grants under the Pilot Program will have a mitigation plan

approved under section 1366(c) of the National Flood Insurance Act of 1968. This mitigation plan is different than the plan which is necessary for certain States that receive a partial waiver of the non-Federal cost share for mitigation.

Section 5. Enhanced Authority in FMA Program

This section amends section 1366 of the National Flood Insurance Act of 1968 by using the existing FMA program to mitigate repetitive claims properties, which are defined as two or more claims, with the cumulative value of such claims of \$5,000 or more, exceeding the amount of any applicable deductible, within any 10 year time period. The Director of FEMA must give first priority for funding to the activities for repetitive claims properties that the Director determines are the most cost-effective for the taxpayers of the United States and are in the best interests of the National Flood Insurance Fund. In this section, the effect of the refusal to mitigate and the appeals process is the same as it is in section 4.

Up to an additional \$20 million will be transferred from the insurance fund into the mitigation fund for each fiscal year. (This has been the current practice in recent appropriations laws).

Up to an additional \$40 million for fiscal years 2004, 2005, 2006, 2007, and 2008 may be transferred from the National Flood Insurance Fund to the National Flood Mitigation Fund for repetitive claims properties and will remain available until expended. The policyholders will not be subject to higher premium rates for flood insurance coverage because of this transfer from the insurance fund into the mitigation fund. As a matter of clarification, the policy service fee charged by FEMA for each policy also will not be increased because of this transfer.

As a matter of clarification, this section does not alter the existing FMA program as it relates to non-repetitive claims properties. Thus, these properties will continue to be eligible for the FMA program if it is cost effective and in the best interest of the NFIP.

Section 6. FEMA Authority to Fund Mitigation Activities for Individual Repetitive Claims Properties

This section creates a new section 1323 of the National Flood Insurance Act of 1968 by authorizing the Director to provide funding for mitigation actions for repetitive claims properties if those activities are in the best interest of the National Flood Insurance Fund and cannot be funded under the Flood Mitigation Assistance Program because either (1) the requirements of the Flood Mitigation Assistance Program are not being met by the State or community in which the property is located; or (2) the State or community does not have the capacity to manage such activities.

Up to an additional \$10 million will be transferred from the National Flood Insurance Fund into the National Mitigation Fund for any fiscal year for these individual repetitive claims properties. The policyholders will not be subject to offsetting collections through premium rates for flood insurance coverage. As a matter of clarification, the policy service fee charged by FEMA for each policy shall also will not be increased because of this transfer.

Section 7. Actuarial Rate Properties

This section amends section 1308 of the National Flood Insurance Act of 1968 by charging actuarial based NFIP rates immediately for Federally leased properties located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall, or other coastal flood control structure. These actuarial rates are not conditioned upon any other factor.

Section 8. Removing Repetitive Claims Properties from Federal Disaster Assistance Responsibility

This section amends section 582 of the National Flood Insurance Reform Act of 1994 by providing that, if an owner of either a severe repetitive loss property or a repetitive claims property refuses an offer of mitigation, no Federal disaster relief assistance can be used to make payment for repair, replacement, or restoration of such property.

Section 9. Electronic Database of Repetitive Claims Properties

This section adds a new subsection to section 1364 of the National Flood Insurance Act of 1968. Under this section, the Director may, if the Director determines feasible, establish and maintain a database identifying by location and address all repetitive loss properties and severe repetitive loss properties. If established, the Director will make the database available to the public in a format that may be searched electronically. The Committee notes that it is important that FEMA continue to improve the quality of its database and make corrections when buildings have been mitigated to remove those buildings from the list.

Section 10. Replacement of Mobile Homes on Original Sites

This section adds a new section 1315 to the National Flood Insurance Act of 1968 which provides that the replacement of mobile homes on any sites will not affect the eligibility of any community to participate in the flood insurance program if (1) the mobile home was previously located on the site; (2) the mobile home was relocated from the site because of flooding that threatened or affected the site; and (3) the replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

Section 11. Reiteration of FEMA Responsibility to Map Mudslides

This section provides that, as directed in section 1360(b) of the National Flood Insurance Act, the Director of FEMA is again directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas in order to make known the degree of hazard within each such zone at the earliest possible date.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

NATIONAL FLOOD INSURANCE ACT OF 1968

* * * * *

TITLE XIII—NATIONAL FLOOD INSURANCE

* * * * *

CHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

* * * * *

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 1308. (a) * * *

* * * * *

[(c) Subject only to the limitation under subsection (e), the chargeable rate with respect to any property, the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1).]

(c) ACTUARIAL RATE PROPERTIES.—Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e).

(2) PROPERTIES REFUSING MITIGATION ASSISTANCE.—Any property for which the Director has taken action under section 1362(g)(1) or 1366(i)(1).

(3) CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.

* * * * *

(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—[Notwithstanding] *Except with respect to properties described under paragraph (2) or (3) of subsection (c) and notwithstanding any other provision of this title, the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 10 percent of*

the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period.

* * * * *

FINANCING

SEC. 1309. (a) All authority which was vested in the Housing and Home Finance Administrator by virtue of section 15(e) of the Federal Flood Insurance Act of 1956 (70 Stat. 1084) (pertaining to the issue of notes or other obligations or the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Director for the purpose of carrying out the flood insurance program under this title; except that the total amount of notes and obligations which may be issued by the Director pursuant to such authority (1) without the approval of the President, may not exceed \$500,000,000, and (2) with the approval of the President, may not exceed \$1,500,000,000 ~~through December 31, 2003, and~~ *through the date specified in section 1319, and* \$1,000,000,000 thereafter. The Director shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at any time when he requests the approval of the President in accordance with the preceding sentence.

* * * * *

NATIONAL FLOOD INSURANCE FUND

SEC. 1310. (a) To carry out the flood insurance program authorized by this title, the Director shall establish in the Treasury of the United States a National Flood Insurance Fund (hereinafter referred to as the “fund”) which shall be an account separate from any other accounts or funds available to the Director and shall be available as described in subsection (f), without fiscal year limitation (except as otherwise provided in this section)—

(1) * * *

* * * * *

(7) for transfers to the National Flood Mitigation Fund, but only to the extent provided in section 1367(b)(1); ~~and~~

~~[(8) for costs of preparing the report under section 577 of the Riegle Community Development and Regulatory Improvement Act of 1994, except that the fund shall be available for the purpose under this paragraph in an amount not to exceed an aggregate of \$5,000,000 over the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.]~~

(8) for financial assistance under section 1362 to States and communities for taking actions under such section with respect to severe repetitive loss properties, but only to the extent provided in section 1362(i); and

(9) for funding, not to exceed \$10,000,000 in any fiscal year, for mitigation actions under section 1323, except that, notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offset-

ting collections through premium rates for flood insurance coverage under this title.

* * * * *

STATE AND LOCAL LAND USE CONTROLS

SEC. 1315. (a) * * *

* * * * *

(c) REPLACEMENT OF MOBILE HOMES ON ORIGINAL SITES.—

(1) *COMMUNITY PARTICIPATION.*—*The placement of any mobile home on any site shall not affect the eligibility of any community to participate in the flood insurance program under this title and the Flood Disaster Protection Act of 1973 (notwithstanding that such placement may fail to comply with any elevation or flood damage mitigation requirements), if—*

(A) such mobile home was previously located on such site;

(B) such mobile home was relocated from such site because of flooding that threatened or affected such site; and

(C) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

(2) *DEFINITION.*—*For purposes of this subsection, the term “mobile home” has the meaning given such term in the law of the State in which the mobile home is located.*

* * * * *

PROGRAM EXPIRATION

SEC. 1319. No new contract for flood insurance under this title shall be entered into [after December 31, 2003.] *after September 30, 2008.*

* * * * *

GRANTS FOR REPETITIVE INSURANCE CLAIMS PROPERTIES

SEC. 1323. (a) *IN GENERAL.*—*The Director may provide funding for mitigation actions that reduce flood damages to repetitive claims properties, but only if the Director determines that—*

(1) such activities are in the best interest of the National Flood Insurance Fund; and

(2) such activities can not be funded under the program under section 1366 because—

(A) the requirements of section 1366(g) are not being met by the State or community in which the property is located; or

(B) the State or community does not have the capacity to manage such activities.

(b) *PRIORITY FOR WORST-CASE PROPERTIES.*—*In determining properties for which funding is to be provided under this section, the Director shall give priority based on the amount of losses to the National Flood Insurance Fund that claims for a property have caused or are reasonably expected to cause.*

(c) *DEFINITION.*—For purposes of this section, the term “repetitive claims property” has the meaning given such term in section 1366(n).

* * * * *

CHAPTER II—ORGANIZATION AND ADMINISTRATION OF THE FLOOD INSURANCE PROGRAM

* * * * *

PART A—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE

* * * * *

EMERGENCY IMPLEMENTATION OF PROGRAM

SEC. 1336. (a) Notwithstanding any other provisions of this title, for the purpose of providing flood insurance coverage at the earliest possible time, the Director shall carry out the flood insurance program authorized under chapter I ~~【during the period ending December 31, 2003, in accordance】~~ *during the period ending on the date specified in section 1319, in accordance* with the provisions of this part and the other provision of this title insofar as they relate to this part but subject to the modifications made by or under subsection (b).

* * * * *

CHAPTER III—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

* * * * *

PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES

SEC. 1362. (a) *AUTHORITY.*—To the extent amounts are made available for use under this section, the Director may, subject to the limitations of this section, provide financial assistance to States and communities for taking actions with respect to severe repetitive loss properties (as such term is defined in subsection (b)) to mitigate flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

(b) *SEVERE REPETITIVE LOSS PROPERTY.*—For purposes of this section, the term “severe repetitive loss property” has the following meaning:

(1) *SINGLE-FAMILY PROPERTIES.*—In the case of a property consisting of one to four 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 four or more separate claims payments have been made under flood insurance coverage under this title before the date of the enactment of the Two Floods and You Are Out of the Taxpayers’ Pocket Act of 2003, with the amount of each such claim exceeding

\$5,000, and with the cumulative amount of such claims payments exceeding \$20,000;

(ii) for which four or more separate claims payments have been made under flood insurance coverage under this title after the date of the enactment of the Two Floods and You Are Out of the Taxpayers' Pocket Act of 2003, with the amount of each such claim exceeding \$3,000, and with the cumulative amount of such claims payments exceeding \$15,000; or

(iii) for which at least two 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 five or more residences, such term shall have such meaning as the Director shall by regulation provide.

(c) **ELIGIBLE ACTIVITIES.**—Amounts provided under this section to a State or community may be used only for the following activities:

(1) **MITIGATION ACTIVITIES.**—To carry out mitigation activities that reduce flood damages to severe repetitive loss properties, including elevation, relocation, demolition, and floodproofing of structures, and minor physical localized flood control projects.

(2) **PURCHASE.**—To purchase severe repetitive loss properties, subject to subsection (f).

(d) **MATCHING REQUIREMENT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Director may not provide assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds for carrying out the eligible activities to be funded with such assistance amounts.

(2) **WAIVER.**—

(A) **AUTHORITY.**—Subject to subparagraph (B), the Director may waive the limitation under paragraph (1) for any State, and for the communities located in that State, with respect to a year, if, for such year—

(i) 5 percent or more of the total number of severe repetitive loss properties in the United States are located in such State; and

(ii) the State submits a plan to the Director specifying how the State intends to reduce the number of severe repetitive loss properties and the Director determines, after consultation with State and technical experts, that the State has taken actions to reduce the number of such properties.

(B) **LIMITATION.**—In each waiver under subparagraph (A), the Director may waive the limitation under paragraph (1) only to the extent that the State or community involved is required to contribute, for each severe repetitive loss property for which grant amounts are provided, not less than 10 percent of the cost of the activities for such properties that are to be funded with grant amounts.

(3) *NON-FEDERAL FUNDS.*—For purposes of this subsection, the term “non-Federal funds” includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the eligible activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

(e) *STANDARDS FOR MITIGATION OFFERS.*—The program under this section for providing assistance for eligible activities for severe repetitive loss properties shall be subject to the following limitations:

(1) *PRIORITY.*—In determining the properties for which to provide assistance for eligible activities under subsection (c), the Director shall provide assistance for properties in the order that will result in the greatest amount of savings to the National Flood Insurance Fund in the shortest period of time.

(2) *OFFERS.*—The Director shall provide assistance in a manner that permits States and communities to make offers to owners of severe repetitive loss properties to take eligible activities under subsection (c) as soon as is practicable.

(3) *NOTICE.*—Upon making an offer to provide assistance with respect to a property for any eligible activity under subsection (c), the State or community shall notify each holder of a recorded interest on the property of such offer and activity.

(f) *PURCHASE OFFERS.*—A State or community may take action under subsection (c)(2) to purchase a severe repetitive loss property only if the following requirements are met:

(1) *USE OF PROPERTY.*—The State or community enters into an agreement with the Director that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of clauses (i) and (ii) of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b).

(2) *PURCHASE PRICE.*—The amount of purchase offer is not less than the greatest of—

(A) the amount of the original purchase price of the property, when purchased by the holder of the current policy of flood insurance under this title;

(B) the total amount owed, at the time the offer to purchase is made, under any loan secured by a recorded interest on the property; and

(C) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property.

(g) *INCREASE TO ACTUARIAL RATES IN CASES OF REFUSAL TO MITIGATE.*—

(1) *IN GENERAL.*—In any case in which the owner of a severe repetitive loss property refuses an offer to take action under paragraph (1) or (2) of subsection (c) with respect to such property, the Director shall—

(A) notify each holder of a recorded interest on the property of such refusal; and

(B) increase the chargeable risk premium rate for flood insurance coverage under this title for the property to an amount equal to the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) and apply appropriate loss deductibles.

(2) APPEALS.—

(A) *IN GENERAL.*—Any owner of a severe repetitive loss property may appeal a determination of the Director to take action under paragraph (1)(B) with respect to such property, based only upon the following grounds:

(i) As a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent.

(ii) As a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of historic places will be interfered with, impaired, or disrupted.

(iii) The flooding that resulted in the flood insurance claims described in subsection (b)(2) for the property resulted from significant actions by a third party in violation of Federal, State, or local law, ordinance, or regulation.

(iv) In purchasing the property, the owner relied upon flood insurance rate maps of the Federal Emergency Management Agency that were current at the time and did not indicate that the property was located in an area having special flood hazards.

(B) *PROCEDURE.*—An appeal under this paragraph of a determination of the Director shall be made by filing, with the Director, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the Director shall select, from a list of independent third parties compiled by the Director for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such third party shall review the determination of the Director and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the Director shall stay the applicability of the rates established pursuant to paragraph (1).

(C) *EFFECT OF FINAL DETERMINATION.*—In an appeal under this paragraph—

(i) if a final determination is made that the grounds under subparagraph (A) exist, the third party hearing such appeal shall make a determination of how much to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1) and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount; and

(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the Director shall promptly increase the chargeable risk premium rate for such property to the amount established pursuant to paragraph (1) and shall collect from the property owner the amount necessary to cover the stay of the applicability of such increased rates during the pendency of the appeal.

(D) COSTS.—If the third party hearing an appeal under this paragraph is compensated for such service, the costs of such compensation shall be borne—

(i) by the owner of the property requesting the appeal, if the final determination in the appeal is that the grounds under subparagraph (A) do not exist; and

(ii) by the National Flood Insurance Fund, if such final determination is that the grounds under subparagraph (A) do exist.

(E) REPORT.—Not later than 6 months after the date of the enactment of the Two Floods and You Are Out of the Taxpayers' Pocket Act of 2003, the Director shall submit a report to the House of Representatives and the Senate describing the rules, procedures, and administration for appeals under this paragraph.

(h) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the Director determines that a fraudulent claim was made under flood insurance coverage under this title for a severe repetitive loss property, the Director may—

(1) cancel the policy and deny the provision to such policyholder of any new flood insurance coverage under this title for the property; or

(2) refuse to renew the policy with such policyholder upon expiration and deny the provision of any new flood insurance coverage under this title to such policyholder for the property.

(i) FUNDING.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to provide assistance under this section in each of fiscal years 2004, 2005, 2006, 2007, and 2008, except that the amount so used in each such fiscal year may not exceed \$40,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

(j) TERMINATION.—The Director may not provide assistance under this section to any State or community after September 30, 2008.

* * * * *

NOTICE REQUIREMENTS

SEC. 1364. (a) * * *

* * * * *

(d) ELECTRONIC DATABASE OF REPETITIVE CLAIMS PROPERTIES.—The Director may, if the Director determines such action is feasible, establish and maintain a database identifying by location and address all repetitive claims properties (as such term is defined in section 1366(n)), repetitive loss structures (as such term is defined in

section 1370), and severe repetitive loss properties (as such term is defined in section 1362(b)). If established, the Director shall make the database available to the public in a format that may be searched electronically. Such a database shall not include any information regarding ownership of properties.

* * * * *

MITIGATION ASSISTANCE

SEC. 1366. (a) * * *

* * * * *

(e) ELIGIBLE MITIGATION ACTIVITIES.—

(1) * * *

* * * * *

[(4) PRIORITY.—The Director shall make every effort to provide mitigation assistance under this section for mitigation plans proposing activities for repetitive loss structures and structures that have incurred substantial damage.]

(4) STANDARD FOR ASSISTANCE.—*In providing grants under this subsection for mitigation activities, the Director shall give first priority for funding to repetitive claims properties, or to such subsets of such properties as the Director may establish pursuant to subsection (n)(2), that the Director determines are the most cost-effective for the taxpayers of the United States, are in the best interests of the National Flood Insurance Fund, and for which matching amounts under subsection (f) are available.*

(5) ELIGIBLE ACTIVITIES.—The Director shall determine whether mitigation activities described in a mitigation plan submitted under subsection (d) comply with the requirements under paragraph (1). Such activities may include—

(A) * * *

* * * * *

(C) acquisition by States and communities of properties (including public properties) located in areas having special flood hazards or other areas of flood risk and properties substantially damaged by flood, [for public use, as the Director determines is consistent with sound land management and use in such area] *except that amounts provided under this section may not be used for acquisition of any property unless—*

(i) the State or community enters into an agreement with the Director that provides assurances that the property purchased will be used in a manner that is consistent with the requirements of clauses (i) and (ii) of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(b)(2)(B)) for properties acquired, accepted, or from which a structure will be removed pursuant to a project provided property acquisition and relocation assistance under such section 404(b); and

(ii) the amount of purchase offer is not less than the greatest of—

(I) the amount of the original purchase price of the property, when purchased by the holder of the current policy of flood insurance under this title;

(II) the total amount owed, at the time the offer to purchase is made, under any loan secured by a recorded interest on the property; and

(III) an amount equal to the fair market value of the property immediately before the most recent flood event affecting the property;

* * * * *

(6) NOTICE.—Upon making an offer to conduct any eligible mitigation activity under paragraph (5) with respect to a repetitive claims property or a severe repetitive loss property (as such term is defined in section 1362(b)) using amounts provided under this section, the State or community shall notify each holder of a recorded interest on the property of such offer and activity.

* * * * *

(f) LIMITATIONS ON AMOUNT OF ASSISTANCE.—

(1) * * *

* * * * *

[(3) WAIVER.—The Director may waive the dollar amount limitations under paragraphs (1) and (2) for any State or community for any 5-year period during which a major disaster or emergency declared by the President (pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act) as a result of flood conditions is in effect with respect to areas in the State or community.]

(3) WAIVER.—The Director may waive the dollar amount limitations under paragraphs (1) and (2) for any State or community—

(A) for any 5-year period when a major disaster or emergency declared by the President (pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)) as a result of flood conditions is in effect with respect to areas in the State or community; or

(B) whenever the Director determines that repetitive claims properties are located within such State or community and that waiver of the cost limitations is cost-effective and in the best interests of the National Flood Insurance Fund.

* * * * *

(j) INCREASE TO ACTUARIAL RATES IN CASES OF REFUSAL TO MITIGATE.—

(1) IN GENERAL.—In any case in which the owner of a repetitive claims property refuses an offer of a State or community to conduct, with respect to such property, mitigation activities under subsection (e) under a mitigation plan approved by the Director, the Director shall—

(A) notify each holder of a recorded interest on the property of such refusal; and

(B) increase the chargeable risk premium rate for flood insurance coverage under this title for the property to an

amount equal to the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) and apply appropriate loss deductibles.

(2) APPEALS.—

(A) MITIGATION ACTIONS.—Any owner of a repetitive claims property may appeal a determination of the Director to take action under paragraph (1)(B) with respect to such property, based only upon the following grounds:

(i) As a result of such action, the owner of the property will not be able to purchase a replacement primary residence of comparable value and that is functionally equivalent.

(ii) As a result of such action, the preservation or maintenance of any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of historic places will be interfered with, impaired, or disrupted.

(iii) The flooding that resulted in the flood insurance claims payments described in subsection (n)(2) for the property resulted from significant actions by a third party in violation of Federal, State, or local law, ordinance, or regulation.

(iv) In purchasing the property, the owner relied upon flood insurance rate maps of the Federal Emergency Management Agency that were current at the time and did not indicate that the property was located in an area having special flood hazards.

(B) PROCEDURE.—An appeal under this paragraph of a determination of the Director shall be made by filing, with the Director, a request for an appeal within 90 days after receiving notice of such determination. Upon receiving the request, the Director shall select, from a list of independent third parties compiled by the Director for such purpose, a party to hear such appeal. Within 90 days after filing of the request for the appeal, such third party shall review the determination of the Director and shall set aside such determination if the third party determines that the grounds under subparagraph (A) exist. During the pendency of an appeal under this paragraph, the Director shall stay the applicability of the rates established pursuant to paragraph (1).

(C) EFFECT OF FINAL DETERMINATION.—In an appeal under this paragraph—

(i) if a final determination is made that the grounds under subparagraph (A) exist, the third party hearing such appeal shall make a determination of how much to reduce the chargeable risk premium rate for flood insurance coverage for the property involved in the appeal from the amount required under paragraph (1) and the Director shall promptly reduce the chargeable risk premium rate for such property by such amount; and

(ii) if a final determination is made that the grounds under subparagraph (A) do not exist, the Director shall promptly increase the chargeable risk premium rate for

such property to the amount established pursuant to paragraph (1) and shall collect from the property owner the amount necessary to cover the stay of the applicability of such increased rates during the pendency of the appeal.

(D) COSTS.—If the third party hearing an appeal under this paragraph is compensated for such service, the costs of such compensation shall be borne—

(i) by the owner of the property requesting the appeal, if the final determination in the appeal is that the grounds under subparagraph (A) do not exist; and

(ii) by the National Flood Mitigation Fund, if such final determination is that the grounds under subparagraph (A) do exist.

(E) REPORT.—Not later than 6 months after the date of the enactment of the Two Floods and You Are Out of the Taxpayers' Pocket Act of 2003, the Director shall submit a report to the House of Representatives and the Senate describing the rules, procedures, and administration for appeals under this paragraph, which shall be submitted together with the report required under section 1362(g)(2)(E).

[(k) DEFINITION OF COMMUNITY.—For purposes of this section, the term “community” means—

[(1) a political subdivision that (A) has zoning and building code jurisdiction over a particular area having special flood hazards, and (B) is participating in the national flood insurance program; or

[(2) a political subdivision of a State, or other authority, that is designated to develop and administer a mitigation plan by political subdivisions, all of which meet the requirements of paragraph (1).**]**

(k) DISCRETIONARY ACTIONS IN CASES OF FRAUDULENT CLAIMS.—If the Director determines that a fraudulent claim was made under flood insurance coverage under this title for a repetitive claims property, the Director may—

(1) cancel the policy and deny the provision to such policyholder of any new flood insurance coverage under this title for the property; or

(2) refuse to renew the policy with such policyholder upon expiration and deny the provision of any new flood insurance coverage under this title to such policyholder for the property.

[(j)] (l) REPORTS.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter, the Director shall submit a report to the Congress describing the status of mitigation activities carried out with assistance provided under this section.

(m) COORDINATION WITH STATES AND COMMUNITIES.—The Director shall, in consultation and coordination with States and communities:

(1) IDENTIFICATION OF REPETITIVE CLAIMS PROPERTIES.—Identify repetitive claims properties and properties at risk of becoming repetitive claims properties.

(2) MANAGEMENT OF 100-YEAR FLOODPLAIN.—Take such actions as are appropriate to encourage and improve participation of owners of properties that are not located in areas having spe-

cial flood hazards but are located within the 100-year floodplain.

(n) *DEFINITIONS.—For purposes of this section:*

(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 to develop and administer a mitigation plan and manage projects by political subdivisions, all of which meet the requirements of subparagraph (A).*

(2) *REPETITIVE CLAIMS PROPERTY.—The term “repetitive claims property” means, without regard to the ownership of the property, a property with respect to which claim payments for losses have been made—*

(A) *under flood insurance coverage under this title,*

(B) *on more than one occasion within a 10-year period, and*

(C) *for which the cumulative value of the amount by which such claims exceed the amount of any applicable deductible under such coverage is \$5,000 or more,*

The Director may, by regulation, further define subsets of repetitive claims properties for purposes of subsection (e)(4).

NATIONAL FLOOD MITIGATION FUND

SEC. 1367. (a) * * *

* * * * *

(b) *CREDITS.—The National Flood Mitigation Fund shall be credited with—*

[(1) amounts from the National Flood Insurance Fund, in amounts not exceeding—

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

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

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

[(D) \$20,000,000 in each fiscal year thereafter;]

(1) *in each fiscal year, amounts from the National Flood Insurance Fund not exceeding \$20,000,000;*

(2) *in each of fiscal years 2004, 2005, 2006, 2007, and 2008, in addition to amounts under paragraph (1), amounts from the National Flood Insurance Fund not exceeding \$40,000,000, to remain available until expended, except that—*

(A) *such amounts shall be used only under section 1366 for mitigation activities for repetitive claims properties (as such term is defined in section 1366(n)); and*

(B) *notwithstanding any other provision of this title, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title; and*

[(2)] (3) any penalties collected under section 102(f) of the Flood Disaster Protection Act of 1973; and

[(3)] (4) any amounts recaptured under section 1366(i).

* * * * *

CHAPTER IV—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

* * * * *

APPROPRIATIONS

SEC. 1376. (a) * * *

* * * * *

(c) There are authorized to be appropriated such sums as may be necessary [through December 31, 2003, for studies under this title.] *through the date specified in section 1319, for studies under this title.*

* * * * *

SECTION 582 OF THE NATIONAL FLOOD INSURANCE REFORM ACT OF 1994

* * * * *

SEC. 582. PROHIBITED FLOOD DISASTER ASSISTANCE.

(a) * * *

* * * * *

(d) *UNMITIGATED REPETITIVE INSURANCE CLAIMS PROPERTIES.—Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) for repair, replacement, or restoration for damage to a property located in such area if—*

(1) such property is a repetitive claims property (as such term is defined in section 1366(n) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(o)) or a severe repetitive loss property (as such term is defined in section 1362(b) of such Act (42 U.S.C. 4103(b)); and

(2) in accordance with such requirements as the Director may establish, mitigation assistance under section 1362 or 1366 of the National Flood Insurance Act of 1968 has been offered to the owner of the property, before or after the occurrence of the flood loss events, which was refused by the owner.

[(d)] (e) **DEFINITION.**—For purposes of this section, the term “flood disaster area” means an area with respect to which—

(1) * * *

* * * * *

[(e)] (f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to disasters declared after the date of enactment of this Act.

* * * * *

