

FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007

SEPTEMBER 24, 2007.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. FRANK of Massachusetts, from the Committee on Financial
Services, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3121]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3121) to restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from wind-storms and floods, and for other purposes, 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 AND TABLE OF CONTENTS.

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

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

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Study regarding status of pre-firm properties and mandatory purchase requirement for natural 100-year floodplain and non-federally related loans.
Sec. 4. Phase-in of actuarial rates for nonresidential properties and non-primary residences.
Sec. 5. Exception to waiting period for effective date of policies.
Sec. 6. Enforcement.
Sec. 7. Multiperil coverage for flood and windstorm.
Sec. 8. Maximum coverage limits.
Sec. 9. Coverage for additional living expenses, basement improvements, business interruption, and replacement cost of contents.
Sec. 10. Notification to tenants of availability of contents insurance.
Sec. 11. Increase in annual limitation on premium increases.
Sec. 12. Increase in borrowing authority.
Sec. 13. FEMA participation in State disaster claims mediation programs.
Sec. 14. FEMA annual report on insurance program.
Sec. 15. Flood insurance outreach.
Sec. 16. Grants for direct funding of mitigation activities for individual repetitive claims properties.
Sec. 17. Extension of pilot program for mitigation of severe repetitive loss properties.
Sec. 18. Flood mitigation assistance program.
Sec. 19. GAO study of methods to increase flood insurance program participation by low-income families.
Sec. 20. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
Sec. 21. Reiteration of FEMA responsibilities under 2004 Reform Act.
Sec. 22. Ongoing modernization of flood maps and elevation standards.
Sec. 23. Notification and appeal of map changes; notification of establishment of flood elevations.
Sec. 24. Clarification of replacement cost provisions, forms, and policy language.
Sec. 25. Authorization of additional FEMA staff.
Sec. 26. Extension of deadline for filing proof of loss.
Sec. 27. 5-year extension of program.
Sec. 28. Report on inclusion of building codes in floodplain management criteria.
Sec. 29. Study of economic effects of charging actuarially-based premium rates for pre-firm structures.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) flooding has been shown to occur in all 50 States, the District of Columbia, and in all territories and possessions of the United States;

(2) the national flood insurance program (NFIP) is the only affordable and reliable source of insurance to protect against flood losses;

(3) the aggregate amount of the flood insurance claims resulting from Hurricane Katrina, Hurricane Rita, and other events has exceeded the aggregate amount of all claims previously paid in the history of the national flood insurance program, requiring a significant increase in the program’s borrowing authority;

(4) flood insurance policyholders have a legitimate expectation that they will receive fair and timely compensation for losses covered under their policies;

(5) substantial flooding has occurred, and will likely occur again, outside the areas designated by the Federal Emergency Management Agency (FEMA) as high-risk flood hazard areas;

(6) properties located in low- to moderate-risk areas are eligible to purchase flood insurance policies with premiums as low as \$112 a year;

(7) about 450,000 vacation homes, second homes, and commercial properties are subsidized and are not paying actuarially sound rates for flood insurance;

(8) phasing out subsidies currently extended to vacation homes, second homes, and commercial properties would result in estimated average annual savings to the taxpayers of the United States and the national flood insurance program of \$335,000,000;

(9) the maximum coverage limits for flood insurance policies should be increased to reflect inflation and the increased cost of housing;

(10) significant reforms to the national flood insurance program required in the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 have yet to be implemented; and

(11) in addition to reforms required in the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, the national flood insurance program requires a modernized and updated administrative model to ensure that the program is solvent and the people of the United States have continued access to flood insurance.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect the integrity of the national flood insurance program by fully funding existing legal obligations expected by existing policyholders who have paid policy premiums in return for flood insurance coverage and to pay debt service on funds borrowed by the NFIP;

(2) to increase incentives for homeowners and communities to participate in the national flood insurance program and to improve oversight to ensure better accountability of the NFIP and FEMA;

(3) to increase awareness of flood risks and improve the quality of information regarding such risks provided to homeowners; and

(4) to provide for the national flood insurance program to make available optional multiperil insurance coverage against loss resulting from physical damage to or loss of real or personal property arising from any flood or windstorm.

SEC. 3. STUDY REGARDING STATUS OF PRE-FIRM PROPERTIES AND MANDATORY PURCHASE REQUIREMENT FOR NATURAL 100-YEAR FLOODPLAIN AND NON-FEDERALLY RELATED LOANS.

(a) IN GENERAL.—The Comptroller General shall conduct a study as follows:

(1) PRE-FIRM PROPERTIES.—The study shall determine the status of the national flood insurance program, as of the date of the enactment of this Act, with respect to the provision of flood insurance coverage for pre-FIRM properties (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4014 note)), which shall include determinations of—

(A) the number of pre-FIRM properties for which coverage is provided and the extent of such coverage;

(B) the cost of providing coverage for such pre-FIRM properties to the national flood insurance program;

(C) the anticipated rate at which such pre-FIRM properties will cease to be covered under the program; and

(D) the effects that implementation of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 will have on the national flood insurance program generally and on coverage of pre-FIRM properties under the program.

(2) MANDATORY PURCHASE REQUIREMENT FOR NATURAL 100-YEAR FLOODPLAIN.—The study shall assess the impact, effectiveness, and feasibility of amending the provisions of the Flood Disaster Protection Act of 1973 regarding the properties that are subject to the mandatory flood insurance coverage purchase requirements under such Act to extend such requirements to properties located in any area that would be designated as an area having special flood hazards but for the existence of a structural flood protection system, and shall determine—

(A) the regulatory, financial and economic impacts of extending such mandatory purchase requirements on the costs of homeownership, the actuarial soundness of the national flood insurance program, the Federal Emergency Management Agency, local communities, insurance companies, and local land use;

(B) the effectiveness of extending such mandatory purchase requirements in protecting homeowners from financial loss and in protecting the financial soundness of the national flood insurance program; and

(C) any impact on lenders of complying with or enforcing such extended mandatory requirements.

(3) MANDATORY PURCHASE REQUIREMENT FOR NON-FEDERALLY RELATED LOANS.—The study shall assess the impact, effectiveness, and feasibility of, and basis under the Constitution of the United States for, amending the provisions of the Flood Disaster Protection Act of 1973 regarding the properties that are subject to the mandatory flood insurance coverage purchase requirements under such Act to extend such requirements to any property that is located in any area having special flood hazards and which secures the repayment of a loan that is not described in paragraph (1), (2), or (3) of section 102(b) of such Act, and shall determine how best to administer and enforce such a requirement, taking into consideration other insurance purchase requirements under Federal and State law.

(b) **REPORT.**—The Comptroller General shall submit a report to the Congress regarding the results and conclusions of the study under this subsection not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 4. PHASE-IN OF ACTUARIAL RATES FOR NONRESIDENTIAL PROPERTIES AND NON-PRIMARY RESIDENCES.

(a) **IN GENERAL.**—Section 1308(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(c)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

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

“(2) **NONRESIDENTIAL PROPERTIES.**—Any nonresidential property, which term shall not include any multifamily rental property that consists of four or more dwelling units.

“(3) **NON-PRIMARY RESIDENCES.**—Any residential property that is not the primary residence of any individual, including the owner of the property or any other individual who resides in the property as a tenant.”.

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

(1) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “the limitations provided under paragraphs (1) and (2)” and inserting “subsection (e)”; and

(B) in paragraph (1), by striking “, except” and all that follows through “subsection (e)”; and

(2) in subsection (e), by striking “paragraph (2) or (3)” and inserting “paragraph (4)”.

(c) **EFFECTIVE DATE AND TRANSITION.**—

(1) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply beginning on January 1, 2011, except as provided in paragraph (2) of this subsection.

(2) **TRANSITION FOR PROPERTIES COVERED BY FLOOD INSURANCE UPON EFFECTIVE DATE.**—

(A) **INCREASE OF RATES OVER TIME.**—In the case of any property described in paragraph (2) or (3) of section 1308(c) of the National Flood Insurance Act of 1968, as amended by subsection (a) of this section, that, as of the effective date under paragraph (1) of this subsection, is covered under a policy for flood insurance made available under the national flood insurance program for which the chargeable premium rates are less than the applicable estimated risk premium rate under section 1307(a)(1) for the area in which the property is located, the Director of the Federal Emergency Management Agency shall increase the chargeable premium rates for such property over time to such applicable estimated risk premium rate under section 1307(a)(1).

(B) **ANNUAL INCREASE.**—Such increase shall be made by increasing the chargeable premium rates for the property (after application of any increase in the premium rates otherwise applicable to such property), once during the 12-month period that begins upon the effective date under paragraph (1) of this subsection and once every 12 months thereafter until such increase is accomplished, by 15 percent (or such lesser amount as may be necessary so that the chargeable rate does not exceed such applicable estimated risk premium rate or to comply with subparagraph (C)). Any increase in chargeable premium rates for a property pursuant to this paragraph shall not be considered for purposes of the limitation under section 1308(e) of such Act.

(C) **PROPERTIES SUBJECT TO PHASE-IN AND ANNUAL INCREASES.**—In the case of any pre-FIRM property (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1974), the aggregate increase, during any 12-month period, in the chargeable premium rate for the property that is attributable to this paragraph or to an increase described in section 1308(e) of the National Flood Insurance Act of 1968 may not exceed the following percentage:

(i) **NONRESIDENTIAL PROPERTIES.**—In the case of any property described in such section 1308(c)(2), 20 percent.

(ii) **NON-PRIMARY RESIDENCES.**—In the case of any property described in such section 1308(c)(3), 25 percent.

(D) **FULL ACTUARIAL RATES.**—The provisions of paragraphs (2) and (3) of such section 1308(c) shall apply to such a property upon the accomplishment of the increase under this paragraph and thereafter.

SEC. 5. EXCEPTION TO WAITING PERIOD FOR EFFECTIVE DATE OF POLICIES.

Section 1306(c)(2)(A) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(2)(A)) is amended by inserting before the semicolon the following: “or is in connection with the purchase or other transfer of the property for which the coverage is provided (regardless of whether a loan is involved in the purchase or transfer transaction), but only when such initial purchase of coverage is made not later than 30 days after such making, increasing, extension, or renewal of the loan or not later than 30 days after such purchase or other transfer of the property, as applicable”.

SEC. 6. ENFORCEMENT.

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

(1) in paragraph (5)—

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

(B) in the last sentence, by striking “\$100,000” and inserting “\$1,000,000; except that such limitation shall not apply to a regulated lending institution or enterprise for a calendar year if, in any three (or more) of the five calendar years immediately preceding such calendar year, the total amount of penalties assessed under this subsection against such lending institution or enterprise was \$1,000,000”; and

(2) in paragraph (6), by adding after the period at the end the following: “No penalty may be imposed under this subsection on a regulated lending institution or enterprise that has made a good faith effort to comply with the requirements of the provisions referred to in paragraph (2) or for any non-material violation of such requirements.”.

SEC. 7. MULTIPERIL COVERAGE FOR FLOOD AND WINDSTORM.

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (c) as subsection (d); and

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

“(c) MULTIPERIL COVERAGE FOR DAMAGE FROM FLOOD OR WINDSTORM.—

“(1) IN GENERAL.—Subject to paragraph (8), the national flood insurance program established pursuant to subsection (a) shall enable the purchase of optional insurance against loss resulting from physical damage to or loss of real property or personal property related thereto located in the United States arising from any flood or windstorm, subject to the limitations in this subsection and section 1306(b).

“(2) COMMUNITY PARTICIPATION REQUIREMENT.—Multiperil coverage pursuant to this subsection may not be provided in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate land use and control measures (with effective enforcement provisions) which the Director finds are consistent with the comprehensive criteria for land management and use relating to windstorms establish pursuant to section 1361(d)(2).

“(3) PROHIBITION AGAINST DUPLICATIVE COVERAGE.—Multiperil coverage pursuant to this subsection may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by flood insurance coverage made available under this title.

“(4) NATURE OF COVERAGE.—Multiperil coverage pursuant to this subsection shall—

“(A) cover losses only from physical damage resulting from flooding or windstorm; and

“(B) provide for approval and payment of claims under such coverage upon proof that such loss must have resulted from either windstorm or flooding, but shall not require for approval and payment of a claim that the specific cause of the loss, whether windstorm or flooding, be distinguished or identified.

“(5) ACTUARIAL RATES.—Multiperil coverage pursuant to this subsection shall be made available for purchase for a property only at chargeable risk premium rates that, based on consideration of the risks involved and accepted actuarial principles, and including operating costs and allowance and administrative expenses, are required in order to make such coverage available on an actuarial basis for the type and class of properties covered.

“(6) TERMS OF COVERAGE.—The Director shall, after consultation with persons and entities referred to in section 1306(a), provide by regulation for the general terms and conditions of insurability which shall be applicable to properties eligible for multiperil coverage under this subsection, subject to the provisions of this subsection, including—

“(A) the types, classes, and locations of any such properties which shall be eligible for such coverage, which shall include residential and nonresidential properties;

“(B) subject to paragraph (7), the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such coverage;

“(C) the classification, limitation, and rejection of any risks which may be advisable;

“(D) appropriate minimum premiums;

“(E) appropriate loss deductibles; and

“(F) any other terms and conditions relating to insurance coverage or exclusion that may be necessary to carry out this subsection.

“(7) LIMITATIONS ON AMOUNT OF COVERAGE.—The regulations issued pursuant to paragraph (6) shall provide that the aggregate liability under multiperil coverage made available under this subsection shall not exceed the lesser of the replacement cost for covered losses or the following amounts, as applicable:

“(A) RESIDENTIAL STRUCTURES.—In the case of residential properties—

“(i) for any single-family dwelling, \$500,000; and

“(ii) for any structure containing more than one dwelling unit, \$500,000 for each separate dwelling unit in the structure; and

“(iii) \$150,000 per dwelling unit for—

“(I) any contents related to such unit; and

“(II) any necessary increases in living expenses incurred by the insured when losses from flooding or windstorm make the residence unfit to live in.

“(B) NONRESIDENTIAL PROPERTIES.—In the case of nonresidential properties (including church properties)—

“(i) \$1,000,000 for any single structure; and

“(ii) \$750,000 for—

“(I) any contents related to such structure;

“(II) in the case of any nonresidential property that is a business property, any losses resulting from any partial or total interruption of the insured’s business caused by damage to, or loss of, such property from flooding or windstorm, except that for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood or windstorm not occurred.

“(8) REQUIREMENT TO CEASE OFFERING COVERAGE IF BORROWING TO PAY CLAIMS.—If at any time the Director utilizes the borrowing authority under section 1309(a) for the purpose of obtaining amounts to pay claims under multiperil coverage made available under this subsection, the Director may not, during the period beginning upon the initial such use of such borrowing authority and ending upon repayment to the Secretary of the Treasury of the full amount of all outstanding notes and obligations issued by the Director for such purpose, together with all interest owed on such notes and obligations, enter into any new policy, or renew any existing policy, for coverage made available under this subsection.

“(9) EFFECTIVE DATE.—This subsection shall take effect on, and shall apply beginning on, June 30, 2008.”.

(b) PROHIBITION AGAINST DUPLICATIVE COVERAGE.—The National Flood Insurance Act of 1968 is amended by inserting after section 1313 (42 U.S.C. 4020) the following new section:

“PROHIBITION AGAINST DUPLICATIVE COVERAGE

“SEC. 1314. Flood insurance under this title may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by multiperil insurance coverage made available pursuant to section 1304(c).”.

(c) COMPLIANCE WITH STATE AND LOCAL LAW.—Section 1316 of the National Flood Insurance Act of 1968 (42 U.S.C. 4023) is amended—

(1) by inserting “(a) FLOOD PROTECTION MEASURES.—” before “No new”; and

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

“(b) WINDSTORM PROTECTION MEASURES.—No new multiperil coverage shall be provided under section 1304(c) for any property that the Director finds has been declared by a duly constituted State or local zoning authority, or other authorized public body to be in violation of State or local laws, regulations, or ordinances, which are intended to reduce damage caused by windstorms.”.

(d) CRITERIA FOR LAND MANAGEMENT AND USE.—Section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) is amended by adding at the end the following new subsection:

“(d) WINDSTORMS.—

“(1) STUDIES AND INVESTIGATIONS.—The Director shall carry out studies and investigations under this section to determine appropriate measures in windstorm-prone areas as to land management and use, windstorm zoning, and windstorm damage prevention, and may enter into contracts, agreements, and other appropriate arrangements to carry out such activities. Such studies and investigations shall include laws, regulations, and ordinance relating to the orderly development and use of areas subject to damage from windstorm risks, and zoning building codes, building permits, and subdivision and other building restrictions for such areas.

“(2) CRITERIA.—On the basis of the studies and investigations pursuant to paragraph (1) and such other information as may be appropriate, the Director shall establish comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will assist in reducing damage caused by windstorms.

“(3) COORDINATION WITH STATE AND LOCAL GOVERNMENTS.—The Director shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of criteria established under paragraph (2) and the adoption and enforcement of measures referred to in such paragraph.”

(e) DEFINITIONS.—Section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121) is amended—

- (1) in paragraph (14), by striking “and” at the end;
- (2) in paragraph (15) by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following new paragraph:
 “(16) the term ‘windstorm’ means any hurricane, tornado, cyclone, typhoon, or other wind event.”

SEC. 8. MAXIMUM COVERAGE LIMITS.

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

- (1) in paragraph (2), by striking “\$250,000” and inserting “\$335,000”;
- (2) in paragraph (3), by striking “\$100,000” and inserting “\$135,000”; and
- (3) in paragraph (4), by striking “\$500,000” each place such term appears and inserting “\$670,000”.

SEC. 9. COVERAGE FOR ADDITIONAL LIVING EXPENSES, BASEMENT IMPROVEMENTS, BUSINESS INTERRUPTION, AND REPLACEMENT COST OF CONTENTS.

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

- (1) in paragraph (4), by striking “and” at the end;
- (2) in paragraph (5)—
 - (A) by inserting “pursuant to paragraph (2), (3), or (4)” after “any flood insurance coverage”; and
 - (B) by striking the period at the end and inserting a semicolon; and
- (3) by adding at the end the following new paragraphs:
 - “(6) in the case of any residential property, each renewal or new contract for flood insurance coverage shall provide not less than \$1,000 aggregate liability per dwelling unit for any necessary increases in living expenses incurred by the insured when losses from a flood make the residence unfit to live in, which coverage shall be available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);
 - “(7) in the case of any residential property, optional coverage for additional living expenses described in paragraph (6) shall be made available to every insured upon renewal and every applicant in excess of the limits provided in paragraph (6) in such amounts and at such rates as the Director shall establish, except that such chargeable rates shall not be less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);
 - “(8) in the case of any residential property, optional coverage for losses, resulting from floods, to improvements and personal property located in basements, crawl spaces, and other enclosed areas under buildings that are not covered by primary flood insurance coverage under this title, shall be made available to every insured upon renewal and every applicant, except that such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);
 - “(9) in the case of any commercial property or other residential property, including multifamily rental property, optional coverage for losses resulting from

any partial or total interruption of the insured's business caused by damage to, or loss of, such property from a flood shall be made available to every insured upon renewal and every applicant, except that—

“(A) for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood not occurred; and

“(B) such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1); and

“(10) in the case of any residential property and any commercial property, optional coverage for the full replacement costs of any contents related to the structure that exceed the limits of coverage otherwise provided in this subsection shall be made available to every insured upon renewal and every applicant, except that such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1).”.

SEC. 10. NOTIFICATION TO TENANTS OF AVAILABILITY OF CONTENTS INSURANCE.

The National Flood Insurance Act of 1968 is amended by inserting after section 1308 (42 U.S.C. 4015) the following new section:

“SEC. 1308A. NOTIFICATION TO TENANTS OF AVAILABILITY OF CONTENTS INSURANCE.

“(a) IN GENERAL.—The Director shall, upon entering into a contract for flood insurance coverage under this title for any property located in an area having special flood hazards—

“(1) provide to the insured sufficient copies of the notice developed pursuant to subsection (b); and

“(2) strongly encourage the insured to provide a copy of the notice, or otherwise provide notification of the information under subsection (b) in the manner that the manager or landlord deems most appropriate, to each such tenant and to each new tenant upon commencement of such a tenancy.

“(b) NOTICE.—Notice to a tenant of a property in accordance with this subsection is written notice that clearly informs a tenant—

“(1) that the property is located in an area having special flood hazards;

“(2) that flood insurance coverage is available under the national flood insurance program under this title for contents of the unit or structure leased by the tenant;

“(3) of the maximum amount of such coverage for contents available under this title at that time; and

“(4) of where to obtain information regarding how to obtain such coverage, including a telephone number, mailing address, and location on the World Wide Web of the Director where such information is available.”.

SEC. 11. INCREASE IN ANNUAL LIMITATION ON PREMIUM INCREASES.

Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended by striking “10 percent” and inserting “15 percent”.

SEC. 12. INCREASE IN BORROWING AUTHORITY.

(a) BORROWING AUTHORITY.—The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005 (Public Law 109–106; 119 Stat. 2288), is amended by striking “\$20,775,000,000” and inserting “\$21,500,000,000”.

(b) FEMA REPORT.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report to the Congress setting forth a plan for repaying within 10 years all amounts, including any amounts previously borrowed but not yet repaid, pursuant to increase in borrowing authority authorized under the amendments made by subsection (a).

SEC. 13. FEMA PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.

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

“SEC. 1325. FEMA PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.

“(a) REQUIREMENT TO PARTICIPATE.—In the case of the occurrence of a natural catastrophe that may have resulted in flood damage covered by insurance made available under the national flood insurance program and a loss covered by personal lines residential property insurance policy, upon request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Direc-

tor in a program sponsored by such State for nonbinding mediation of insurance claims resulting from a natural catastrophe, the Director shall cause such representatives to participate in such State program, when claims under the national flood insurance program are involved, to expedite settlement of flood damage claims resulting from such catastrophe.

“(b) EXTENT OF PARTICIPATION.—Participation by representatives of the Director required under subsection (a) with respect to flood damage claims resulting from a natural catastrophe shall include—

“(1) providing adjusters certified for purposes of the national flood insurance program who are authorized to settle claims against such program resulting from such catastrophe in amounts up to the limits of policies under such program;

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

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

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

“(c) COORDINATION.—Representatives of the Director who participate pursuant to this section in a State-sponsored mediation program with respect to a natural catastrophe shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purpose of consolidating and expediting the settlement of claims under the national flood insurance program resulting from such catastrophe at the earliest possible time.

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

“(e) EFFECT OF PARTICIPATION ON LIABILITY, RIGHT, AND OBLIGATIONS.—Participation of Representatives of the Director pursuant to this section in State-sponsored mediation shall not affect or expand the liability of any party in contract or in tort, nor shall it affect the rights or obligations of the parties as provided in the Standard Flood Insurance Policy under the national flood insurance program, regulations of the Federal Emergency Management Agency, this Act, or Federal common law.

“(f) EXCLUSIVE FEDERAL JURISDICTION.—Participation of Representatives of the Director pursuant to this section in State-sponsored mediation shall not alter, change or modify the original exclusive jurisdiction of United States courts as provided in this Act.

“(g) COST LIMITATION.—Nothing in this section shall be construed to require the Director or representatives of the Director to pay additional mediation fees relating to flood claims associated with a State-sponsored mediation program in which representatives of the Director participate.

“(h) EXCEPTION.—In the case of the occurrence of a natural catastrophe that results in flood damage claims under the national flood insurance program and does not result in any loss covered by a personal lines residential property insurance policy—

“(1) this section shall not apply; and

“(2) the provisions of the Standard Flood Insurance Policy under the national flood insurance program and the appeals process established pursuant to section 205 of the Bunning-Bereueter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108–264; 118 Stat. 726) and regulations issued pursuant to such section shall apply exclusively.

“(i) REPRESENTATIVES OF DIRECTOR.—For purposes of this section, the term ‘representatives of the Director’ means representatives of the national flood insurance program who participate in the appeals process established pursuant to section 205 of the Bunning-Bereueter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108–264; 118 Stat. 726) and regulations issued pursuant to such section.”.

SEC. 14. FEMA ANNUAL REPORT ON INSURANCE PROGRAM.

Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) is amended—

(1) in the section heading, by striking “REPORT TO THE PRESIDENT” and inserting “ANNUAL REPORT TO CONGRESS”;

(2) in subsection (a)—

(A) by striking “biennially”;

(B) by striking “the President for submission to”; and

(C) by inserting “not later than June 30 of each year” before the period at the end;

(3) in subsection (b), by striking “biennial” and inserting “annual”; and

(4) by adding at the end the following new subsection:

“(c) **FINANCIAL STATUS OF PROGRAM.**—The report under this section for each year shall include information regarding the financial status of the national flood insurance program under this title, including a description of the financial status of the National Flood Insurance Fund and current and projected levels of claims, premium receipts, expenses, and borrowing under the program.”.

SEC. 15. FLOOD INSURANCE OUTREACH.

(a) **GRANTS.**—Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

“SEC. 1326. GRANTS FOR OUTREACH TO PROPERTY OWNERS AND RENTERS.

“(a) **IN GENERAL.**—The Director may, to the extent amounts are made available pursuant to subsection (h), make grants to local governmental agencies responsible for floodplain management activities (including such agencies of Indians tribes, as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) in communities that participate in the national flood insurance program under this title, for use by such agencies to carry out outreach activities to encourage and facilitate the purchase of flood insurance protection under this Act by owners and renters of properties in such communities and to promote educational activities that increase awareness of flood risk reduction.

“(b) **OUTREACH ACTIVITIES.**—Amounts from a grant under this section shall be used only for activities designed to—

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

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

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

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

“(5) encouraging such owners and renters to maintain or acquire such coverage.

“(c) **COST SHARING REQUIREMENT.**—

“(1) **IN GENERAL.**—In any fiscal year, the Director may not provide a grant under this section to a local governmental agency in an amount exceeding 3 times the amount that the agency certifies, as the Director shall require, that the agency will contribute from non-Federal funds to be used with grant amounts only for carrying out activities described in subsection (b).

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

“(d) **ADMINISTRATIVE COST LIMITATION.**—Notwithstanding subsection (b), the Director may use not more than 5 percent of amounts made available under subsection (g) to cover salaries, expenses, and other administrative costs incurred by the Director in making grants and provide assistance under this section.

“(e) **APPLICATION AND SELECTION.**—

“(1) **IN GENERAL.**—The Director shall provide for local governmental agencies described in subsection (a) to submit applications for grants under this section and for competitive selection, based on criteria established by the Director, of agencies submitting such applications to receive such grants.

“(2) **SELECTION CONSIDERATIONS.**—In selecting applications of local government agencies to receive grants under paragraph (1), the Director shall consider—

“(A) the existence of a cooperative technical partner agreement between the local governmental agency and the Federal Emergency Management Agency;

“(B) the history of flood losses in the relevant area that have occurred to properties, both inside and outside the special flood hazards zones, which are not covered by flood insurance coverage;

“(C) the estimated percentage of high-risk properties located in the relevant area that are not covered by flood insurance;

“(D) demonstrated success of the local governmental agency in generating voluntary purchase of flood insurance; and

“(E) demonstrated technical capacity of the local governmental agency for outreach to individual property owners.

“(f) **DIRECT OUTREACH BY FEMA.**—In each fiscal year that amounts for grants are made available pursuant to subsection (h), the Director may use not more than 50 percent of such amounts to carry out, and to enter into contracts with other entities to carry out, activities described in subsection (b) in areas that the Director determines have the most immediate need for such activities.

“(g) **REPORTING.**—Each local government agency that receives a grant under this section, and each entity that receives amounts pursuant to subsection (f), shall submit a report to the Director, not later than 12 months after such amounts are first received, which shall include such information as the Director considers appropriate to describe the activities conducted using such amounts and the effect of such activities on the retention or acquisition of flood insurance coverage.

“(h) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for grants under this section \$50,000,000 for each of fiscal years 2008 through 2012.”

(b) **REPORT ON CURRENT EFFORTS.**—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report to the Congress identifying and describing the marketing and outreach efforts then currently being undertaken to educate consumers regarding the benefits of obtaining coverage under the national flood insurance program.

SEC. 16. GRANTS FOR DIRECT FUNDING OF MITIGATION ACTIVITIES FOR INDIVIDUAL REPETITIVE CLAIMS PROPERTIES.

(a) **DIRECT GRANTS TO OWNERS.**—Section 1323 of the National Flood Insurance Act of 1968 (42 U.S.C. 4030) is amended—

(1) in the section heading, by inserting “direct” before “grants”; and

(2) in the matter in subsection (a) that precedes paragraph (1)—

(A) by inserting “, to owners of such properties,” before “for mitigation actions”; and

(B) by striking “1” and inserting “two”.

(b) **AVAILABILITY OF FUNDS.**—Paragraph (9) of section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended by inserting “which shall remain available until expended,” after “any fiscal year,”.

SEC. 17. EXTENSION OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

Section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a) is amended—

(1) in subsection (k)(1), by striking “2005, 2006, 2007, 2008, and 2009” and inserting “2008, 2009, 2010, 2011, and 2012”; and

(2) by striking subsection (l).

SEC. 18. FLOOD MITIGATION ASSISTANCE PROGRAM.

(a) **ELIGIBILITY OF PROPERTY DEMOLITION AND REBUILDING.**—Section 1366(e)(5)(B) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(e)(5)(B)) is amended by striking “or floodproofing” and inserting “floodproofing, or demolition and rebuilding”.

(b) **ELIMINATION OF LIMITATIONS ON AGGREGATE AMOUNT OF ASSISTANCE.**—Section 1366 of the National Flood Insurance Act of 1968 is amended by striking subsection (f).

(c) **SOURCE OF FUNDS.**—Subsection (a) of section 1367 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104d(a)) is amended by adding at the end the following new sentence: “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.”.

(d) **TECHNICAL AMENDMENTS.**—Section 1366 of the National Flood Insurance Act of 1968 is amended—

- (1) by striking “subsection (g)” each place such term appears in subsections (h) and (i)(2) and inserting “subsection (f)”;
- (2) by redesignating subsections (g) through (k) as subsections (f) through (j), respectively; and
- (3) by redesignating subsection (m) as subsection (k).

SEC. 19. GAO STUDY OF METHODS TO INCREASE FLOOD INSURANCE PROGRAM PARTICIPATION BY LOW-INCOME FAMILIES.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study to identify and analyze potential methods, practices, and incentives that would increase the extent to which low-income families (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))) that own residential properties located within areas having special flood hazards purchase flood insurance coverage for such properties under the national flood insurance program. In conducting the study, the Comptroller General shall analyze the effectiveness and costs of the various methods, practices, and incentives identified, including their effects on the national flood insurance program.

(b) **REPORT.**—The Comptroller General shall submit to the Congress a report setting forth the conclusions of the study under this section not later than 12 months after the date of the enactment of this Act.

SEC. 20. NOTICE OF AVAILABILITY OF FLOOD INSURANCE AND ESCROW IN RESPA GOOD FAITH ESTIMATE.

Subsection (c) of section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(c)) is amended by adding at the end the following new sentence: “Each such good faith estimate shall include the following conspicuous statements and information: (1) that flood insurance coverage for residential real estate is generally available under the national flood insurance program whether or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact the national flood insurance program; (2) a telephone number and a location on the World Wide Web by which a home owner or purchaser can contact the national flood insurance program; and (3) that the escrowing of flood insurance payments is required for many loans under section 102(d) of the Flood Disaster Protection Act of 1973, and may be a convenient and available option with respect to other loans.”

SEC. 21. REITERATION OF FEMA RESPONSIBILITIES UNDER 2004 REFORM ACT.

(a) **APPEALS PROCESS.**—As directed in section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note), the Director of the Federal Emergency Management Agency is again directed to, not later than 90 days after the date of the enactment of this Act, establish an appeals process through which holders of a flood insurance policy may appeal the decisions, with respect to claims, proofs of loss, and loss estimates relating to such flood insurance policy as required by such section.

(b) **MINIMUM TRAINING AND EDUCATION REQUIREMENTS.**—The Director of the Federal Emergency Management Agency is directed to continue to work with the insurance industry, State insurance regulators, and other interested parties to implement the minimum training and education standards for all insurance agents who sell flood insurance policies that were established by the Director under the notice published September 1, 2005 (70 Fed. Reg. 52117) pursuant to section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).

(c) **REPORT.**—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report to the Congress describing the implementation of each provision of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108–264) and identifying each regulation, order, notice, and other material issued by the Director in implementing each such provision.

SEC. 22. ONGOING MODERNIZATION OF FLOOD MAPS AND ELEVATION STANDARDS.

(a) **ONGOING FLOOD MAPPING PROGRAM.**—Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsection:

“(k) **ONGOING PROGRAM TO REVIEW, UPDATE, AND MAINTAIN FLOOD INSURANCE PROGRAM MAPS.**—

“(1) **IN GENERAL.**—The Director, in coordination with the Technical Mapping Advisory Council established pursuant to section 576 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note) and section 22(b) of the Flood Insurance Reform and Modernization Act of 2007, shall establish an ongoing program under which the Director shall review, update, and maintain national flood insurance program rate maps in accordance with this subsection.

“(2) INCLUSIONS.—

“(A) COVERED AREAS.—Each map updated under this subsection shall include a depiction of—

- “(i) the 500-year floodplain;
- “(ii) areas that could be inundated as a result of the failure of a levee, as determined by the Director; and
- “(iii) areas that could be inundated as a result of the failure of a dam, as identified under the National Dam Safety Program Act (33 U.S.C. 467 et seq.).

“(B) OTHER INCLUSIONS.—In updating maps under this subsection, the Director may include—

- “(i) any relevant information on coastal inundation from—
 - “(I) an applicable inundation map of the Corps of Engineers; and
 - “(II) data of the National Oceanic and Atmospheric Administration relating to storm surge modeling;
- “(ii) any relevant information of the Geographical Service on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Director; and
- “(iii) a description of any hazard that might impact flooding, including, as determined by the Director—
 - “(I) land subsidence and coastal erosion areas;
 - “(II) sediment flow areas;
 - “(III) mud flow areas;
 - “(IV) ice jam areas; and
 - “(V) areas on coasts and inland that are subject to the failure of structural protective works, such as levees, dams, and floodwalls.

“(3) STANDARDS.—In updating and maintaining maps under this subsection, the Director shall establish standards to—

“(A) ensure that maps are adequate for—

- “(i) flood risk determinations; and
- “(ii) use by State and local governments in managing development to reduce the risk of flooding;

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

“(C) ensure that emerging weather forecasting technology is used, where practicable, in flood map evaluations and the identification of potential risk areas.

“(4) HURRICANES KATRINA AND RITA MAPPING PRIORITY.—In updating and maintaining maps under this subsection, the Director shall—

“(A) give priority to the updating and maintenance of maps of coastal areas affected by Hurricane Katrina or Hurricane Rita to provide guidance with respect to hurricane recovery efforts; and

“(B) use the process of updating and maintaining maps under subparagraph (A) as a model for updating and maintaining other maps.

“(5) PREVENTING DELAY OF 100-YEAR MAPS.—In carrying out this section and this subsection, the Director shall take such actions as may be necessary to ensure that updating and publication of national flood insurance program rate maps to include a depiction of the 500-year floodplain does not in any manner delay the completion or publication of the program rate maps for the 100-year floodplain.

“(6) EDUCATION PROGRAM.—The Director shall, after each update to a flood insurance program rate map, in consultation with the chief executive officer of each community affected by the update, conduct a program to educate each such community about the update to the flood insurance program rate map and the effects of the update.

“(7) ANNUAL REPORT.—Not later than June 30 of each year, the Director shall submit a report to the Congress describing, for the preceding 12-month period, the activities of the Director under the program under this section and the reviews and updates of flood insurance program rate maps conducted under the program. Each such annual report shall contain the most recent report of the Technical Mapping Advisory Council pursuant to section 576(c)(3) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note).

“(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Director to carry out this subsection \$400,000,000 for each of fiscal years 2008 through 2013.”.

(b) REESTABLISHMENT OF TECHNICAL MAPPING ADVISORY COUNCIL FOR ONGOING MAPPING PROGRAM.—

(1) REESTABLISHMENT.—There is reestablished the Technical Mapping Advisory Council, in accordance with this subsection and section 576 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note).

(2) MEMBERSHIP.—Paragraph (1) of section 576(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note) is amended—

(A) in the matter preceding subparagraph (A), by striking “10” and inserting “14”;

(B) by redesignating subparagraphs (E), (F), (G), (H), (I), and (J) as subparagraphs (F), (G), (H), (K), (N), and (O), respectively;

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

“(E) a representative of the Corps of Engineers of the United States Army;”;

(D) by inserting after subparagraph (H) (as so redesignated by subparagraph (B) of this paragraph) the following new subparagraphs:

“(I) a representative of local or regional flood and stormwater agencies;

“(J) a representative of State geographic information coordinators;”;

(E) by inserting after subparagraph (K) (as so redesignated by subparagraph (B) of this paragraph) the following new subparagraphs:

“(L) a representative of flood insurance servicing companies;

“(M) a real estate professional;”.

(3) TERMS OF MEMBERS AND APPOINTMENT.—Section 576(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note) is amended by adding at the end the following new paragraph:

“(3) TERMS OF MEMBERS.—

“(A) IN GENERAL.—Each member of the Council pursuant to any of subparagraphs (B) through (N) of paragraph (1) shall be appointed for a term of 5 years, except as provided in subparagraphs (B) and (C).

“(B) TERMS OF INITIAL APPOINTEES.—As designated by the Director (or the designee of the Director) at the time of appointment, of the members of the Council first appointed pursuant to subparagraph (D)—

“(i) 4 shall be appointed for a term of 1 year;

“(ii) 4 shall be appointed for a term of 3 years; and

“(iii) 5 shall be appointed for a term of 5 years.

“(C) VACANCIES.—Any member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member’s term until a successor has taken office. A vacancy in the Council shall be filled in the manner in which the original appointment was made.

“(D) INITIAL APPOINTMENT.—The Director, or the Director’s designee, shall take action as soon as possible after the date of the enactment of the Flood Insurance Reform and Modernization Act of 2007 to appoint the members of the Council pursuant to this subsection.”.

(4) DUTIES.—Subsection (c) of section 576 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note) is amended to read as follows:

“(c) DUTIES.—The Council shall—

“(1) make recommendations to the Director for improvements to the flood map modernization program under section 1360(k) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(k));

“(2) make recommendations to the Director for maintaining a modernized inventory of flood hazard maps and information; and

“(3) submit an annual report to the Director that contains a description of the activities and recommendations of the Council.”.

(5) ELIMINATION OF TERMINATION.—Section 576 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note) is amended by striking subsection (k) and inserting the following new subsection:

“(k) CONTINUED EXISTENCE.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to termination of advisory committees) shall not apply to the Council.”.

(c) POST-DISASTER FLOOD ELEVATION DETERMINATIONS.—Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(1) INTERIM POST-DISASTER FLOOD ELEVATIONS.—

“(1) AUTHORITY.—Notwithstanding any other provision of this section or section 1363, the Director may, after any flood-related disaster, establish by order interim flood elevation requirements for purposes of the national flood insurance program for any areas affected by such flood-related disaster.

“(2) EFFECTIVENESS.—Such interim elevation requirements for such an area shall take effect immediately upon issuance and may remain in effect until the Director establishes new flood elevations for such area in accordance with section 1363 or the Director provides otherwise.”.

(d) UPDATING UPON REQUEST OF COMMUNITY.—Paragraph (2) of section 1360(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(f)(2)) is amended by inserting before the period at the end the following: “, except that such a revision or update shall be made at no cost to the unit of government making the request if the request is being made to reflect repairs and upgrades to dams, levees, or other flood control projects under the jurisdiction and responsibility of the Federal Government”.

SEC. 23. NOTIFICATION AND APPEAL OF MAP CHANGES; NOTIFICATION OF ESTABLISHMENT OF FLOOD ELEVATIONS.

Section 1363 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104) is amended by striking the section designation and all that follows through the end of subsection (a) and inserting the following:

“SEC. 1363. (a) In establishing projected flood elevations for land use purposes with respect to any community pursuant to section 1361, the Director shall first propose such determinations—

“(1) by providing the chief executive officer of each community affected by the proposed elevations, by certified mail, with a return receipt requested, notice of the elevations, including a copy of the maps for the elevations for such community and a statement explaining the process under this section to appeal for changes in such elevations;

“(2) by causing notice of such elevations to be published in the Federal Register, which notice shall include information sufficient to identify the elevation determinations and the communities affected, information explaining how to obtain copies of the elevations, and a statement explaining the process under this section to appeal for changes in the elevations; and

“(3) by publishing in a prominent local newspaper the elevations, a description of the appeals process for flood determinations, and the mailing address and telephone number of a person the owner may contact for more information or to initiate an appeal.”.

SEC. 24. CLARIFICATION OF REPLACEMENT COST PROVISIONS, FORMS, AND POLICY LANGUAGE.

Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall—

(1) in plain language using easy to understand terms and concepts, issue regulations, and revise any materials made available by such Agency, to clarify the applicability of replacement cost coverage under the national flood insurance program;

(2) in plain language using easy to understand terms and concepts, revise any regulations, forms, notices, guidance, and publications relating to the full cost of repair or replacement under the replacement cost coverage to more clearly describe such coverage to flood insurance policyholders and information to be provided by such policyholders relating to such coverage, and to avoid providing misleading information to such policyholders;

(3) revise the language in standard flood insurance policies under such program regarding rating and coverage descriptions in a manner that is consistent with language used widely in other homeowners and property and casualty insurance policies, including such language regarding classification of buildings, basements, crawl spaces, detached garages, enclosures below elevated buildings, and replacement costs; and

(4) require the use, in connection with flood insurance policies, of the supplemental forms developed pursuant to section 202 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108–264; 118 Stat. 725).

SEC. 25. AUTHORIZATION OF ADDITIONAL FEMA STAFF.

Notwithstanding any other provision of law, the Director of the Federal Emergency Management Agency may employ such additional staff as may be necessary to carry out all of the responsibilities of the Director pursuant to this Act and the amendments made by this Act. There are authorized to be appropriated to Director such sums as may be necessary for costs of employing such additional staff.

SEC. 26. EXTENSION OF DEADLINE FOR FILING PROOF OF LOSS.

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

- (1) by inserting “(a) PAYMENT.—” before “The Director”; and
- (2) by adding at the end the following new subsection:

“(b) FILING DEADLINE FOR PROOF OF LOSS.—

“(1) IN GENERAL.—In establishing any requirements regarding notification, proof, or approval of claims for damage to or loss of property which is covered by flood insurance made available under this title, the Director may not require an insured to notify the Director of such damage or loss, submit a claim for such damage or loss, or certify to or submit proof of such damage or loss, before the expiration of the 180-day period that begins on the date that such damage or loss occurred.

“(2) EXCEPTIONS.—Notwithstanding any deadline established in accordance with paragraph (1), the Director may not deny a claim for damage or loss described in such paragraph solely for failure to meet such deadline if the insured demonstrates any good cause for such failure.”

(b) APPLICABILITY.—Subsection (b) of section 1312 of the National Flood Insurance Act of 1968, as added by subsection (a)(2) of this section, shall apply with respect to any claim under which the damage to or loss of property occurred on or after the date of the enactment of this Act.

SEC. 27. 5-YEAR EXTENSION OF PROGRAM.

Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking “September 30, 2008” and inserting “September 30, 2013”.

SEC. 28. REPORT ON INCLUSION OF BUILDING CODES IN FLOODPLAIN MANAGEMENT CRITERIA.

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

- (1) the regulatory, financial, and economic impacts of such a building code requirement on homeowners, States and local communities, local land use policies, and the Federal Emergency Management Agency;
- (2) the resources required of State and local communities to administer and enforce such a building code requirement;
- (3) the effectiveness of such a building code requirement in reducing flood-related damage to buildings and contents;
- (4) the impact of such a building code requirement on the actuarial soundness of the National Flood Insurance Program;
- (5) the effectiveness of nationally recognized codes in allowing innovative materials and systems for flood-resistant construction; and
- (6) the feasibility and effectiveness of providing an incentive in lower premium rates for flood insurance coverage under such Act for structures meeting whichever of such widely used and nationally recognized building code or any applicable local building code provides greater protection from flood damage.

SEC. 29. STUDY OF ECONOMIC EFFECTS OF CHARGING ACTUARIALLY-BASED PREMIUM RATES FOR PRE-FIRM STRUCTURES.

(a) STUDY.—The Director of the Federal Emergency Management Agency (in this section referred to as the “Director”) shall conduct a study of the economic effects that would result from increasing premium rates for flood insurance coverage made available under the national flood insurance program for non-primary residences and non-residential pre-FIRM structures (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4014 note) to the full actuarial risk based premium rate determined under section 1307(a)(1) of the National Flood Insurance Act of 1968 for the area in which the property is located. In conducting the study, the Director shall—

- (1) determine each area that would be subject to such increased premium rates; and
- (2) for each such area, determine—
 - (A) the amount by which premium rates would be increased;
 - (B) the number and types of properties affected and the number and types of properties covered by flood insurance under this title likely to cancel such insurance if the rate increases were made;
 - (C) the effects that the increased premium rates would have on land values and property taxes; and

(D) any other effects that the increased premium rates would have on the economy, homeowners, and renters of non-primary residences.

(b) REPORT.—The Director shall submit a report to the Congress describing and explaining the findings of the study conducted under this section. The report shall be submitted not later than 12 months after the date of the enactment of this Act.

PURPOSE AND SUMMARY

H.R. 3121, the Flood Insurance Reform and Modernization Act of 2007, reauthorizes the National Flood Insurance Program (“NFIP”), provides for reforms to the NFIP, improves flood mapping, and expands the NFIP to provide for multiple peril coverage. The bill reauthorizes the NFIP for five years through 2013 (the current authorization for the NFIP expires September 30, 2008) and ensures its continued viability by encouraging broader participation, increasing financial accountability, eliminating unnecessary rate subsidies, and updating the flood insurance program to meet the needs of the 21st century.

In an effort to make the NFIP more actuarially sound, the bill phases out subsidized rates on commercial properties, vacation homes, and second homes built before 1974. Multifamily rental properties are excluded from the phase-out of the subsidy.

Additional optional policy coverage is added, allowing business owners to purchase business interruption coverage at actuarial rates to better prepare them to meet payroll and other obligations during the next big storm. Additionally, optional coverage at actuarial rates for basement improvements and replacement cost of contents is added. For the first time since 1994, the bill updates maximum insurance coverage limits for residential and nonresidential properties.

The bill requires FEMA to conduct a thorough review of the nation’s flood maps. The bill makes the updating and modernization of flood maps an ongoing process, and increases funding for mapping.

Provisions protecting policy holders include clarification of disclosures about flood insurance availability and plain language information on flood insurance policies. Landlords must notify tenants of contents coverage availability. Further, the bill makes flood insurance effective immediately upon purchase of a home.

To encourage participation in the NFIP, the bill provides for a new community outreach program, and provides for a study of how to increase participation by low-income families. In order to help ensure that those homeowners who should have flood insurance do have flood insurance, the bill increases the fines on lenders who do not enforce the mandatory flood insurance policy purchase requirement for those who live in a floodplain and hold a Federally-backed mortgage.

Additionally, the bill requires FEMA to report to Congress annually on the financial status of the NFIP, increases the amount FEMA can raise policy rates in any given year from 10 percent to 15 percent, and authorizes funding for additional staff at FEMA to carry out the requirements of this bill.

BACKGROUND AND NEED FOR LEGISLATION

Congress created the NFIP in 1968, because flood insurance was generally not available to most homeowners through the private

market. The NFIP is periodically reauthorized and was significantly revised in 1973, 1977, 1994, and 2004. The NFIP is administered through FEMA's Mitigation Directorate and is currently authorized through September 30, 2008.

The NFIP generates premium revenue of approximately \$2.4 billion annually, which in an average flood event year covers all policy holder claims and operating expenses. The 2005 hurricane season resulted in significant claims, which premium income could not cover. To cover the claims, the NFIP borrowed from the U.S. Treasury. Before 2005 the NFIP's borrowing authority was limited by statute to \$1.5 billion. Congress amended the statutory limitation three times since September 2005, increasing the NFIP's borrowing authority from \$1.5 billion to its current limit of \$20.775 billion.

The NFIP was designed to provide homeowners with affordable insurance protection against floods while alleviating taxpayers' responsibility for flood losses paid out in the form of post-disaster relief. The NFIP reduces future flood losses through: (i) flood hazard identification; (ii) floodplain management (i.e., land use controls and building requirements); and, (iii) insurance protection. The NFIP is estimated to reduce flood loss expenses to the Federal government by over \$1 billion annually.

Ancillary to providing flood insurance under the NFIP, FEMA also: (i) identifies and maps flood prone areas eligible to participate in the program; and (ii) sets land use controls and building requirements that flood-prone communities are required to adopt and enforce in order to participate in the program and make flood insurance available to their residents.

FEMA issues Flood Insurance Rate Maps ("FIRMs") that delineate areas, called Special Flood Hazard Areas ("SFHAs"), determined to have a 1 percent chance of flooding in any given year (the "100-year floodplain"). Because FIRMs determine where and at what rate insurance under the program is available or required, outdated or inaccurate FIRMs result in flood prone properties either being left out of the SFHAs, incorrectly being included in the SFHAs, or being charged incorrect rates. According to a June 2007 report issued by the Congressional Budget Office (CBO), the actuarial soundness of the NFIP depends on the accuracy of the flood maps. FEMA is currently engaged in a multi-year flood map modernization program to update, revise, and digitize over 100,000 paper maps.

Under the NFIP, FEMA also sets land use controls and building requirements that communities located in SFHAs must adopt and enforce within SFHAs in order for property owners to be eligible for insurance under the program. Related to this land use control function, the NFIP includes a mitigation program through which grants are made to eligible entities to implement planning and projects that reduce future flood damage. Mitigation projects include such activities as purchasing flood-prone homes and returning the land to natural floodplain function, raising homes above the 100-year flood level, relocating homes out of SFHAs, demolishing and rebuilding compliant buildings, flood proofing nonresidential buildings and other activities that reduce flood damage.

Insurance under the NFIP was initially optional and available for all properties located in SFHAs. Homeowners, renters, and business owners in participating communities purchase coverage

under the program either directly from the NFIP or, most often, from private insurers that participate in the Write Your Own (“WYO”) program. WYO insurers take responsibility for policy administration and claims processing, but assume no financial risk in settling claims.

In response to initially low participation in the NFIP, in 1973 Congress made the purchase of flood insurance mandatory for all properties located in SFHAs with mortgages issued or guaranteed by the federal government. By 1994, lax enforcement of the mandatory purchase requirements led Congress to require lenders to purchase coverage on behalf of and bill premiums to mortgagees who failed to purchase coverage on their own (called “forced placed insurance”). Since 1994, lenders who fail to enforce the mandatory purchase requirement are subject to civil penalties.

The NFIP has a two-tiered rate structure: (1) a subsidized pre-FIRM rate for structures built before the 1974 mandatory purchase requirement went into effect for all FIRM properties; and, (2) an “actuarial” rate for structures built or substantially improved after 1974. Pre-FIRM rates are determined through a federal rule-making process with criteria designed to encourage participation in the program and not, by definition, to generate premium income sufficient to pay anticipated claims on pre-FIRM properties.

Congress expected that, over time, the percentage of pre-FIRM structures would decline and that most or all of the structures insured under the program would be subject to “actuarial” rates. However, pre-FIRM structures continue to represent approximately 24 percent of structures insured under the NFIP. The NFIP uses its borrowing authority and its “actuarial” rate premiums to cover any shortfalls that result from the program’s two tier rate structure.

The program’s “actuarial” rates are also designed, in part, to encourage participation in the program. As a result, these “actuarial” rates do not follow traditional rate-making methods designed to generate premium income sufficient to pay reasonably anticipated claims. Instead, rates under the program are only designed to generate annual premium income equal to the average annual claims paid by under the program since 1978. In “bad” years, when actual annual claims exceed the program’s average annual claims, the NFIP has used its borrowing authority to make-up the shortfall. In “good” years, when average annual claims exceeded actual annual claims, the NFIP has either used surplus premiums to repay (with interest) funds borrowed in “bad” years or has saved surplus premiums to cover claims in future “bad” years.

With its borrowing authority capped at \$1.5 billion, the program had enough surplus premium income from “good” years to repay the Treasury within a reasonable period of time and avoiding significant interest expenses. The massive borrowing necessary to pay claims from the 2005 hurricane season upset the program’s balance leaving the program with a current debt of approximately \$17.5 billion. The NFIP pays interest on the outstanding debt of between \$600 million to \$800 million annually.

HEARINGS

The Subcommittee on Housing and Community Opportunity held a hearing entitled “The Flood Insurance Reform and Modernization

Act of 2007, H.R. 1682” on June 12, 2007. The following witnesses testified:

PANEL ONE

- Mr. Edward L. Connor, Deputy Assistant Administrator for Insurance, Federal Emergency Management Agency

PANEL TWO

- Mr. Paul A. Osman, CFM, Illinois Department of Natural Resources, on behalf of Association of State Floodplains Managers, Inc.
- Mr. David Maune, Ph.D., CP, CFM, on behalf of Management Association for Private Photogrammetric Surveyors
- Mr. Curt Sumner, Executive Director, American Congress on Surveying and Mapping
- Mr. Mark Davey, President & CEO, Fidelity National Insurance Company, on behalf of Property Casualty Insurers Association of America
- Mr. Thomas Minkler, President of the Clark-Mortenson Agency, Inc., on behalf of Independent Insurance Agents & Brokers of America, Inc.
- Mr. Vince Malta, President, Malta & Co., Inc., on behalf of the National Association of Realtors

The Subcommittee on Housing and Community Opportunity held a hearing entitled “H.R. 920, the Multiple Peril Insurance Act of 2007” on July 17, 2007. The following witnesses testified:

PANEL ONE

- The Honorable Richard H. Baker
- The Honorable Gene Taylor
- The Honorable Charlie Melancon
- The Honorable Bobby Jindal

PANEL TWO

- Mr. David I. Maurstad, Assistant Administrator for Mitigation, Federal Emergency Management Agency
- The Honorable Phillip Swagel, Assistant Secretary for Economic Policy, U.S. Department of the Treasury

PANEL THREE

- Ms. Pam Pogue, Vice Chair, Association of State Floodplain Managers
- Ms. Sandy Praeger, Commissioner, Kansas Insurance Department, on behalf of the National Association of Insurance Commissioners
- Mr. Ted A. Majewski, Senior Vice President, Harleysville Insurance, on behalf of the Property Casualty Insurers, American Insurance Association, and National Association of Mutual Insurance Companies
- Ms. Cheryl Small, Policy Advisor, National Flood Determination Association
- Mr. W. Anderson Baker, III, CPCU, ARM, Gillis, Ellis & Baker Inc.

- Dr. Robert P. Hartwig, Ph.D., CPCU, President and Chief Economist, Insurance Information Institute
- Mr. David Conrad, Senior Water Resources Specialist, National Wildlife Federation

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 26, 2007, and ordered reported H.R. 3121, the Flood Insurance Reform and Modernization Act of 2007, as amended, to the House with a favorable recommendation by a record vote of 38 yeas and 29 nays.

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. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a record vote of 38 yeas and 29 nays (Record vote no. FC-56). The names of Members voting for and against follow:

RECORD VOTE NO. FC-56

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank	X			Mr. Bachus		X	
Mr. Kanjorski	X			Mr. Baker			
Ms. Waters	X			Ms. Pryce (OH)		X	
Mrs. Maloney	X			Mr. Castle		X	
Mr. Gutierrez	X			Mr. King (NY)		X	
Ms. Velázquez	X			Mr. Royce		X	
Mr. Watt	X			Mr. Lucas		X	
Mr. Ackerman	X			Mr. Paul		X	
Ms. Carson	X			Mr. Gillmor		X	
Mr. Sherman	X			Mr. LaTourette	X		
Mr. Meeks	X			Mr. Manzullo			
Mr. Moore (KS)	X			Mr. Jones	X		
Mr. Capuano	X			Mrs. Biggert		X	
Mr. Hinojosa				Mr. Shays		X	
Mr. Clay	X			Mr. Miller (CA)		X	
Mrs. McCarthy	X			Mrs. Capito		X	
Mr. Baca	X			Mr. Feeney		X	
Mr. Lynch	X			Mr. Hensarling		X	
Mr. Miller (NC)	X			Mr. Garrett (NJ)		X	
Mr. Scott	X			Ms. Brown-Waite		X	
Mr. Green	X			Mr. Barrett (SC)		X	
Mr. Cleaver	X			Mr. Gerlach		X	
Ms. Bean	X			Mr. Pearce		X	
Ms. Moore (WI)	X			Mr. Neugebauer		X	
Mr. Davis (TN)	X			Mr. Price (GA)		X	
Mr. Sires	X			Mr. Davis (KY)		X	
Mr. Hodes	X			Mr. McHenry		X	
Mr. Ellison	X			Mr. Campbell		X	
Mr. Klein	X			Mr. Putnam		X	
Mr. Mahoney (FL)	X			Mrs. Bachmann		X	
Mr. Wilson	X			Mr. Roskam		X	
Mr. Perlmutter	X			Mr. Marchant		X	
Mr. Murphy	X			Mr. McCotter		X	
Mr. Donnelly	X						
Mr. Wexler	X						
Mr. Marshall	X						
Mr. Boren	X						

The following amendments were disposed of by record votes. The names of Members voting for and against follow:

An amendment by Mrs. Biggert, No. 1, an amendment in the nature of a substitute striking all after the enacting clause and inserting H.R. 1682, was not agreed to by a record vote of 30 yeas and 37 nays (Record vote no. FC-52):

RECORD VOTE NO. FC-52

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X		Mr. Bachus	X		
Mr. Kanjorski		X		Mr. Baker	X		
Ms. Waters		X		Ms. Pryce (OH)	X		
Mrs. Maloney		X		Mr. Castle	X		
Mr. Gutierrez		X		Mr. King (NY)	X		
Ms. Velázquez		X		Mr. Royce	X		
Mr. Watt		X		Mr. Lucas	X		
Mr. Ackerman		X		Mr. Paul	X		
Ms. Carson		X		Mr. Gillmor	X		
Mr. Sherman		X		Mr. LaTourette	X		
Mr. Meeks		X		Mr. Manzullo			
Mr. Moore (KS)		X		Mr. Jones		X	
Mr. Capuano		X		Mrs. Biggert	X		
Mr. Hinojosa				Mr. Shays	X		
Mr. Clay		X		Mr. Miller (CA)	X		
Mrs. McCarthy		X		Mrs. Capito	X		
Mr. Baca		X		Mr. Feeney	X		
Mr. Lynch		X		Mr. Hensarling	X		
Mr. Miller (NC)		X		Mr. Garrett (NJ)	X		
Mr. Scott		X		Ms. Brown-Waite	X		
Mr. Green		X		Mr. Barrett (SC)	X		
Mr. Cleaver		X		Mr. Gerlach	X		
Ms. Bean		X		Mr. Pearce	X		
Ms. Moore (WI)		X		Mr. Neugebauer	X		
Mr. Davis (TN)		X		Mr. Price (GA)	X		
Mr. Sires		X		Mr. Davis (KY)	X		
Mr. Hodes		X		Mr. McHenry	X		
Mr. Ellison		X		Mr. Campbell	X		
Mr. Klein		X		Mr. Putnam	X		
Mr. Mahoney (FL)		X		Mrs. Bachmann	X		
Mr. Wilson		X		Mr. Roskam	X		
Mr. Perlmutter		X		Mr. Marchant			
Mr. Murphy		X		Mr. McCotter	X		
Mr. Donnelly		X					
Mr. Wexler		X					
Mr. Marshall		X					
Mr. Boren		X					

An amendment by Ms. Brown-Waite, No. 12, striking Section 7 (multi-peril coverage) and inserting a study regarding expansion of the national flood insurance program, was not agreed to by a record vote of 31 yeas and 37 nays (Record vote no. FC-53):

RECORD VOTE NO. FC-53

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X		Mr. Bachus	X		
Mr. Kanjorski		X		Mr. Baker	X		
Ms. Waters		X		Ms. Pryce (OH)	X		
Mrs. Maloney		X		Mr. Castle	X		
Mr. Gutierrez		X		Mr. King (NY)	X		
Ms. Velázquez		X		Mr. Royce	X		
Mr. Watt		X		Mr. Lucas	X		
Mr. Ackerman		X		Mr. Paul	X		
Ms. Carson		X		Mr. Gillmor	X		

RECORD VOTE NO. FC-53—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Sherman		X	.....	Mr. LaTourette	X	.....	.....
Mr. Meeks		X	.....	Mr. Manzullo .....	.....	.....	.....
Mr. Moore (KS)		X	.....	Mr. Jones .....	.....	X	.....
Mr. Capuano		X	.....	Mrs. Biggert	X	.....	.....
Mr. Hinojosa	Mr. Shays	X	.....	.....
Mr. Clay		X	.....	Mr. Miller (CA)	X	.....	.....
Mrs. McCarthy		X	.....	Mrs. Capito	X	.....	.....
Mr. Baca		X	.....	Mr. Feeney	X	.....	.....
Mr. Lynch		X	.....	Mr. Hensarling	X	.....	.....
Mr. Miller (NC)		X	.....	Mr. Garrett (NJ)	X	.....	.....
Mr. Scott		X	.....	Ms. Brown-Waite	X	.....	.....
Mr. Green		X	.....	Mr. Barrett (SC)	X	.....	.....
Mr. Cleaver		X	.....	Mr. Gerlach	X	.....	.....
Ms. Bean		X	.....	Mr. Pearce	X	.....	.....
Ms. Moore (WI)		X	.....	Mr. Neugebauer	X	.....	.....
Mr. Davis (TN)		X	.....	Mr. Price (GA)	X	.....	.....
Mr. Sires		X	.....	Mr. Davis (KY)	X	.....	.....
Mr. Hodes		X	.....	Mr. McHenry	X	.....	.....
Mr. Ellison		X	.....	Mr. Campbell	X	.....	.....
Mr. Klein		X	.....	Mr. Putnam	X	.....	.....
Mr. Mahoney (FL)		X	.....	Mrs. Bachmann	X	.....	.....
Mr. Wilson		X	.....	Mr. Roskam	X	.....	.....
Mr. Perlmutter		X	.....	Mr. Marchant	X	.....	.....
Mr. Murphy		X	.....	Mr. McCotter	X	.....	.....
Mr. Donnelly		X	.....			
Mr. Wexler		X	.....			
Mr. Marshall		X	.....			
Mr. Boren		X	.....			

An amendment by Mr. Davis of Kentucky, No. 14, regarding conditions for making coverage available, was not agreed to by a record vote of 30 yeas and 37 nays (Record vote no. FC-54):

RECORD VOTE NO. FC-54

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X	.....	Mr. Bachus	X	.....	.....
Mr. Kanjorski		X	.....	Mr. Baker .....	.....	.....	.....
Ms. Waters		X	.....	Ms. Pryce (OH)	X	.....	.....
Mrs. Maloney		X	.....	Mr. Castle	X	.....	.....
Mr. Gutierrez		X	.....	Mr. King (NY)	X	.....	.....
Ms. Velázquez		X	.....	Mr. Royce	X	.....	.....
Mr. Watt		X	.....	Mr. Lucas	X	.....	.....
Mr. Ackerman		X	.....	Mr. Paul	X	.....	.....
Ms. Carson		X	.....	Mr. Gillmor	X	.....	.....
Mr. Sherman		X	.....	Mr. LaTourette	X	.....	.....
Mr. Meeks		X	.....	Mr. Manzullo .....	.....	.....	.....
Mr. Moore (KS)		X	.....	Mr. Jones .....	.....	X	.....
Mr. Capuano		X	.....	Mrs. Biggert	X	.....	.....
Mr. Hinojosa	Mr. Shays	X	.....	.....
Mr. Clay		X	.....	Mr. Miller (CA)	X	.....	.....
Mrs. McCarthy		X	.....	Mrs. Capito	X	.....	.....
Mr. Baca		X	.....	Mr. Feeney	X	.....	.....
Mr. Lynch		X	.....	Mr. Hensarling	X	.....	.....
Mr. Miller (NC)		X	.....	Mr. Garrett (NJ)	X	.....	.....
Mr. Scott		X	.....	Ms. Brown-Waite	X	.....	.....
Mr. Green		X	.....	Mr. Barrett (SC)	X	.....	.....
Mr. Cleaver		X	.....	Mr. Gerlach	X	.....	.....
Ms. Bean		X	.....	Mr. Pearce	X	.....	.....
Ms. Moore (WI)		X	.....	Mr. Neugebauer	X	.....	.....
Mr. Davis (TN)		X	.....	Mr. Price (GA)	X	.....	.....
Mr. Sires		X	.....	Mr. Davis (KY)	X	.....	.....
Mr. Hodes		X	.....	Mr. McHenry	X	.....	.....

RECORD VOTE NO. FC-54—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Ellison		X	.....	Mr. Campbell	X	.....	.....
Mr. Klein		X	.....	Mr. Putnam	X	.....	.....
Mr. Mahoney (FL)		X	.....	Mrs. Bachmann	X	.....	.....
Mr. Wilson		X	.....	Mr. Roskam	X	.....	.....
Mr. Perlmutter		X	.....	Mr. Marchant	X	.....	.....
Mr. Murphy		X	.....	Mr. McCotter	X	.....	.....
Mr. Donnelly		X	.....			
Mr. Wexler		X	.....			
Mr. Marshall		X	.....			
Mr. Boren		X	.....			

An amendment by Mr. Price of Georgia, No. 17, striking Section 26 (extension of deadline for filing proof of loss), was not agreed to by a record vote of 24 yeas and 43 nays (Record vote no. FC-55):

RECORD VOTE NO. FC-55

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Frank		X	.....	Mr. Bachus	X	.....	.....
Mr. Kanjorski		X	.....	Mr. Baker .....			.....
Ms. Waters		X	.....	Ms. Pryce (OH)		X	.....
Mrs. Maloney		X	.....	Mr. Castle		X	.....
Mr. Gutierrez		X	.....	Mr. King (NY)		X	.....
Ms. Velázquez		X	.....	Mr. Royce	X	.....	.....
Mr. Watt		X	.....	Mr. Lucas	X	.....	.....
Mr. Ackerman		X	.....	Mr. Paul	X	.....	.....
Ms. Carson		X	.....	Mr. Gillmor	X	.....	.....
Mr. Sherman		X	.....	Mr. LaTourette		X	.....
Mr. Meeks		X	.....	Mr. Manzullo .....			.....
Mr. Moore (KS)		X	.....	Mr. Jones		X	.....
Mr. Capuano		X	.....	Mrs. Biggert	X	.....	.....
Mr. Hinojosa	Mr. Shays	X	.....	.....
Mr. Clay		X	.....	Mr. Miller (CA)	X	.....	.....
Mrs. McCarthy		X	.....	Mrs. Capito	X	.....	.....
Mr. Baca		X	.....	Mr. Feeney	X	.....	.....
Mr. Lynch		X	.....	Mr. Hensarling	X	.....	.....
Mr. Miller (NC)		X	.....	Mr. Garrett (NJ)	X	.....	.....
Mr. Scott		X	.....	Ms. Brown-Waite)	X	.....	.....
Mr. Green		X	.....	Mr. Barrett (SC)	X	.....	.....
Mr. Cleaver		X	.....	Mr. Gerlach		X	.....
Ms. Bean		X	.....	Mr. Pearce	X	.....	.....
Ms. Moore (WI)		X	.....	Mr. Neugebauer	X	.....	.....
Mr. Davis (TN)		X	.....	Mr. Price (GA)	X	.....	.....
Mr. Sires		X	.....	Mr. Davis (KY)	X	.....	.....
Mr. Hodes		X	.....	Mr. McHenry	X	.....	.....
Mr. Ellison		X	.....	Mr. Campbell	X	.....	.....
Mr. Klein		X	.....	Mr. Putnam	X	.....	.....
Mr. Mahoney (FL)		X	.....	Mrs. Bachmann	X	.....	.....
Mr. Wilson		X	.....	Mr. Roskam	X	.....	.....
Mr. Perlmutter		X	.....	Mr. Marchant		X	.....
Mr. Murphy		X	.....	Mr. McCotter	X	.....	.....
Mr. Donnelly		X	.....			
Mr. Wexler		X	.....			
Mr. Marshall		X	.....			
Mr. Boren		X	.....			

The following other amendments were also considered by the Committee:

An amendment by Mr. Neugebauer, No. 2, directing FEMA to conduct a study and report to Congress on inclusion of building codes in floodplain management criteria, was agreed to by a voice vote.

An amendment by Mr. Hinojosa, No. 3, regarding effective date of ongoing flood mapping program, was agreed to by a voice vote.

An amendment by Mr. Klein, No. 4, striking Section 4 (phase-in of actuarial rates for nonresidential properties and non-primary residences) and inserting study on increasing premiums for non-residential properties and non-primary residences, was withdrawn.

An en bloc amendment by Mr. Hinojosa, No. 5, requiring a study of economic effects of charging actuarially-based premium rates for pre-firm structures; effecting a change in membership of technical mapping advisory council for ongoing mapping program; and include residential property, including multifamily rental property, for losses, was agreed to by a voice vote.

An amendment by Mr. Hinojosa (and Mr. Green), No. 6, ensuring that rental property used as primary residence is covered, was agreed to by a voice vote.

An amendment by Mr. Hinojosa, No. 7, updating information of mapping upon request of community, was agreed to by a voice vote.

An amendment by Mr. Green (and Mr. Cleaver), No. 8, providing for tenant notice of availability of contest insurance, was agreed to by a voice vote.

An amendment by Mr. Cleaver, No. 9, preventing delay of 100-year maps, was agreed to by a voice vote.

An amendment by Mr. Garrett, No. 10, on pre-firm phase-in properties, was agreed to by a voice vote.

An amendment by Mr. Boren, No. 11, regarding a report on current efforts by FEMA to market and educate consumers regarding benefits of obtaining coverage under the national flood insurance program, was agreed to by a voice vote.

An amendment by Mr. Baker, No. 13, establishing an effective date for Section 7 (multi-peril coverage), was agreed to by a voice vote.

An amendment by Mr. Hensarling, No. 15, modifying the FEMA report on borrowing authority, was agreed to by a voice vote.

An amendment by Mr. Price of Georgia, No. 16, requiring use of supplemental forms in connection with flood insurance policies, was agreed to by a voice vote.

An amendment by Mr. McHenry, No. 18, concerning a requirement to cease offering coverage if borrowing to pay claims, 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 has held hearings and 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:

H.R. 3121, the Flood Insurance Reform and Modernization Act of 2007, reauthorizes the National Flood Insurance Program and provides for reforms and changes to the program with the goal of strengthening the program and ensuring its long-term viability.

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 new 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.

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:

SEPTEMBER 20, 2007.

Hon. BARNEY FRANK,
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. 3121, the Flood Insurance Reform and Modernization Act of 2007.

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

Sincerely,

PETER R. ORSZAG.

Enclosure.

H.R. 3121—Flood Insurance Reform and Modernization Act of 2007

Summary: H.R. 3121 would authorize the National Flood Insurance Program (NFIP) of the Federal Emergency Management Agency (FEMA) to enter into and renew flood insurance policies through 2013. Under current law, that authority would expire at the end of 2008. The legislation also would increase the amount that FEMA can borrow from the U.S. Treasury to cover expenses of the NFIP from \$20.8 billion to \$21.5 billion. As a result, CBO estimates that enacting H.R. 3121 would increase direct spending by \$725 million in 2009.

By raising certain civil penalties on lending institutions, CBO estimates that the bill would increase revenues by \$1 million per year. Finally, H.R. 3121 would authorize the appropriation of nearly \$2.8 billion over the 2008–2012 period for mapping regions of the country at risk of flooding and for other activities. CBO estimates that implementing those provisions would increase discretionary spending by about \$1.8 billion over the 2008–2012 period, assuming the appropriation of the specified amounts.

H.R. 3121 would require FEMA to phase in actuarially sound flood insurance premiums for owners of certain commercial prop-

erties and some residential properties that are not the owners' primary residences—if they do not currently pay actuarial rates for flood insurance. The legislation also would authorize FEMA to offer new types of insurance coverage (including multiperil insurance for floods and windstorms) as well as increase the maximum insurance coverage available for structures and their contents. Moreover, H.R. 3121 would raise the cap on the average annual premium increase allowed under current law from 10 percent to 15 percent. CBO estimates that enacting those provisions would have no significant net effect on direct spending over the 2008–2017 period. (The increases in premiums would yield an additional \$3.1 billion in receipts over that period, but they would have to be spent to cover the NFIP's ongoing costs.)

H.R. 3121 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. H.R. 3121 would impose a private-sector mandate, as defined in UMRA, on certain mortgage lenders. Based on information from FEMA and industry sources, CBO expects the direct costs to comply with the mandate would be small and fall below the annual threshold for private-sector mandates established in UMRA (\$131 million in 2007, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3121 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—				
	2008	2009	2010	2011	2012
CHANGES IN DIRECT SPENDING AND REVENUES ¹					
Additional Borrowing for Flood Insurance:					
Estimated Budget Authority	0	725	0	0	0
Estimated Outlays	0	725	0	0	0
Estimated Revenues	1	1	1	1	1
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Flood Mapping Program:					
Authorization Level	400	400	400	400	400
Estimated Outlays	100	260	340	400	400
Outreach Grants:					
Authorization Level	50	50	50	50	50
Estimated Outlays	28	40	50	50	50
Mitigation of Severe Repetitive Loss Properties:					
Authorization Level	0	0	40	40	40
Estimated Outlays	0	0	12	36	40
Additional Studies:					
Authorization Level	1	0	0	0	0
Estimated Outlays	1	0	0	0	0
Total Changes:					
Authorization Level	451	450	490	490	490
Estimated Outlays	129	300	402	486	490

¹ CBO estimates that there would be no changes in direct spending after 2012 under H.R. 3121, and that revenue collections of \$1 million a year would continue after 2012.

Basis of estimate: For this estimate, CBO assumes that H.R. 3121 will be enacted near the start of fiscal year 2008 and that amounts specified by the bill will be appropriated for each year. We estimate that enacting H.R. 3121 would increase direct spending by \$725 million in 2009. In addition, CBO estimates that imple-

menting the bill would increase discretionary spending by about \$1.8 billion over the 2008–2012 period.

Direct spending and revenues

CBO estimates that the bill's increase in FEMA's borrowing authority would result in new direct spending. Other changes to the flood insurance program would affect operations of the program, but we estimate that those changes would not result in any significant net impact on direct spending over the next 10 years.

Increase in borrowing authority. Through the NFIP, FEMA offers flood insurance in communities that conform to the program's standards for flood plain management. Under current law, if premiums from policy sales and interest income are insufficient to cover the program's costs, FEMA can borrow up to \$20.8 billion from the U.S. Treasury. As of August 2007, the NFIP had borrowed a total of \$17.5 billion (the bulk of which has been used to settle claims related to Hurricanes Katrina and Rita). Based on information from FEMA about outstanding claims and continuing interest payments on its past borrowing, CBO expects that the agency will exhaust its remaining borrowing authority within the next few years. Section 12 would increase FEMA's borrowing authority for the flood insurance program by \$725 million. CBO estimates that the agency would exercise this authority in 2009, resulting in an increase in direct spending of \$725 million in that year, relative to current baseline projections.

Current law requires FEMA to repay any borrowed funds (with interest) as it collects premiums, provided that the program's other costs are fully covered. However, CBO expects that the agency would be unlikely to repay funds borrowed under H.R. 3121 within the next 10 years. Based on historical data, the agency is likely to face claims of between \$1 billion and \$2 billion per year for flooding events around the country (this does not include additional claims that would be filed if another catastrophic event were to occur). Based on the amount of current and projected borrowing by the flood insurance program, CBO estimates that FEMA also will be required to make annual debt-service payments to the Treasury of between \$800 million and \$900 million. CBO expects that the program will collect insufficient premiums to cover claims expenses and debt-service costs over the next 10 years. In other words, CBO expects that the NFIP will probably not have sufficient funds to make timely payments for all valid claims submitted to it. By increasing the program's borrowing authority, H.R. 3121 would provide resources—\$725 million—to liquidate such claims that otherwise could not be promptly paid under current law.

Civil penalties. Section 6 would increase the civil penalty from \$350 to \$2,000 for lenders that do not enforce the purchase and notification requirements for certain mortgagors. Penalty collections are recorded in the budget as revenues. CBO estimates that the increased collections of civil penalties under this bill would total about \$1 million a year. The amounts collected would be credited to the National Flood Mitigation Fund and could be spent, subject to future appropriation actions.

Rate increases for certain properties. Section 4 would direct FEMA to increase flood insurance premiums for certain policyholders who currently receive discounted or subsidized rates.

Under current law, some property owners are charged a premium that is less than the full actuarial cost of the insurance because they were built before the community's flood insurance rate map (FIRM) was completed (or before 1975, whichever is later). Those properties are collectively known as pre-FIRM properties. (Some post-FIRM policies also receive a discounted premium, but they are few in number relative to pre-FIRM properties.) FEMA estimates the average discount for pre-FIRM properties is about 60 percent.

H.R. 3121 would increase premiums for nonresidential pre-FIRM properties and pre-FIRM properties that are not the primary residence of either the owner or a tenant (for example, vacation homes) to actuarial levels by 2011. The bill would direct the NFIP to assess an additional 15 percent on top of routine annual rate increases for those properties until the actuarial rate is achieved (or until 2011, when such policies would be charged an actuarial rate). Based on information from FEMA, CBO estimates that approximately 375,000 properties would be subject to such rate increases under the bill. CBO expects that owners of some of those properties would either drop flood insurance or reduce their level of coverage in response to an increase in premium charges. However, we expect that any decrease in premium income resulting from a reduction in coverage would be more than offset by increased collections from properties that remain in the program. Additionally, by reducing the number of pre-FIRM properties in the program, the NFIP would save the cost of paying claims on those subsidized policies in the future.

CBO estimates that implementing this provision would increase receipts from flood insurance premiums by about \$900 million over the 2008–2012 period and by about \$3.1 billion over the next 10 years. Subsidized policyholders that drop flood insurance coverage in response to the rate increases would reduce program costs by an average of \$45 million a year over the next 10 years, CBO estimates.

CBO anticipates that any additional receipts generated by increasing premiums on those properties would be spent on future flood insurance claims that the program would otherwise not have the resources to pay—resulting in no significant net budgetary impact. That is, the program changes required under section 4 would improve the long-term actuarial position of the NFIP; but the program's large debt and the requirement to pay interest costs on that debt means that savings from the reduction in subsidized policies would have to be used to cover ongoing costs of the NFIP and would not lead to net budgetary savings over the 2008–2017 period.

Multiperil insurance. Section 7 would authorize FEMA to offer insurance coverage for flood and wind damage to property owners in communities that conform to the program's standards for wind damage and flood plain management. (Additional standards related to windstorms would be established under the bill based on studies undertaken by FEMA.) Under H.R. 3121, FEMA would be authorized to insure damages attributable to floods or windstorms up to a maximum of \$650,000 per residence for structure, contents, and additional living expenses and a total of \$1,750,000 for structure, contents, and business interruption losses for commercial properties.

H.R. 3121 would direct FEMA to offer such multiperil coverage at actuarial (i.e., unsubsidized) rates. Because of the uncertain nature of actuarial pricing, FEMA might collect more receipts than necessary to pay future claims (resulting in a net reduction in direct spending). It is also possible that FEMA might collect less premium income than would be necessary to cover future liabilities from multiperil policies, which would likely result in the need for additional borrowing authority from the Treasury. In the latter case, the legislation would prohibit FEMA from entering into or renewing any multiperil policy until such borrowing is repaid. CBO expects that the new coverage offered under H.R. 3121 would increase premium receipts and additional claims payments by about the same amount—resulting in no significant net budgetary impact.

Increased coverage limits and new lines of coverage. Sections 8 and 9 would increase the total amount of flood insurance coverage available to a residential customer from \$350,000 to \$470,000, and to a commercial business from \$1.0 million to \$1.3 million. The legislation would direct FEMA to include coverage of up to \$1,000 for living expenses in all future policies. Additional optional coverage also would be available for living expenses, repairs to residential basements and crawl spaces, business interruption, and the full replacement of contents.

As of June 2007, the NFIP had approximately 5.5 million policies in force, with a total exposure of over \$1 trillion. Those policyholders pay about \$2.7 billion in premiums to the federal government annually. Under the bill, the increased coverage limits and new lines of insurance would be offered to policyholders when they initiate or renew their policies and that coverage would be offered at actuarial rates. Thus, CBO expects that any additional insurance coverage obtained under this provision would increase premium receipts to the federal government, which would—on average—be roughly offset by additional claims payments.

Increase in annual limit on rate increases. Section 11 would authorize the NFIP to increase rates on policies within a specified risk category by an average of up to 15 percent per year. Under current law, the limit is 10 percent. CBO estimates that raising this limit would have no significant impact on the federal budget because to date FEMA has not been constrained in its rate-setting process by the current cap on premiums for actuarially priced policies. (Rate increases for subsidized policies would be affected by other provisions of the bill.)

Spending subject to appropriation

Implementing H.R. 3121 would increase discretionary spending by \$1.8 billion over the 2008–2012 period, assuming appropriation of the authorized amounts.

Flood Mapping Program. Section 22 would authorize the appropriation of \$400 million per year over the 2008–2013 period for updating flood maps to include the 500-year flood plain, as well as areas that would be flooded if a dam or levee failed. In addition, the bill would reestablish a 14-member Technical Mapping Advisory Council to assist with managing flood mapping activities. Based on historical spending patterns for this program, CBO esti-

mates that implementing this section would cost \$1.5 billion over the 2008–2012 period and an additional \$900 million after 2012.

Grants for outreach to property owners and renters. Section 15 would authorize the appropriation of \$250 million over the 2008–2012 period for grants to communities participating in the NFIP to conduct educational and outreach activities to encourage the purchase of flood insurance and raise the awareness of flood risk and measures that can be taken to mitigate flood damages. Based on the historical spending patterns of similar programs, CBO estimates that implementing this provision would cost \$218 million over the 2008–2012 period, assuming appropriation of the specified amounts.

Mitigation of severe repetitive loss properties. Section 17 would extend for three years the authorization of appropriations for the mitigation pilot program that funds preventive measures for certain properties that have been frequently flooded (known as severe repetitive loss properties). Severe repetitive loss properties are those that have sustained four or more losses totaling more than \$20,000, or two or more losses that cumulatively exceed the value of the property. Under current law, up to \$40 million a year from the National Flood Insurance Fund can be used for this program through 2009. Based on historical spending rates for mitigation projects, CBO estimates that implementing this section would cost \$88 million over the 2008–2012 period.

Additional studies. H.R. 3121 would authorize the Government Accountability Office to conduct studies of pre-FIRM properties, the feasibility of expanding the requirement to purchase flood insurance, and potential methods for increasing the participation of low-income families in the NFIP. The bill also would direct FEMA to conduct studies on the impact of using nationally recognized building codes as a part of flood-plain management and the economic effects of eliminating the discounted premiums paid by owners of certain pre-FIRM properties. CBO estimates that preparing those studies would cost \$1 million in fiscal year 2008.

Staff increases. Section 25 would authorize FEMA to hire additional staff to implement the provisions of this bill. The amount of increased administrative costs that would result from the bill is uncertain because FEMA does not yet know how it would implement various provisions. Subject to appropriation of administrative expenses, FEMA is authorized to set an administrative cost recovery fee on flood insurance policies to offset spending on salaries and expenses. Thus, CBO expects additional administrative costs under the bill would not have a significant net cost.

Estimated impact on state, local, and tribal governments: H.R. 3121 contains no intergovernmental mandates as defined in UMRA. Assuming appropriation of authorized amounts, CBO estimates state, local, and tribal governments would receive up to \$300 million over the 2008–2012 period for outreach and flood mitigation activities. Any costs to those governments would be incurred voluntarily as a condition of receiving federal assistance.

Estimated impact on the private sector: H.R. 3121 would impose a private-sector mandate, as defined in UMRA, on certain mortgage lenders. Based on information from FEMA and industry sources, CBO expects that the direct costs to comply with the mandate would be small and fall below the annual threshold for pri-

vate-sector mandates established in UMRA (\$131 million in 2007, adjusted annually for inflation).

Under current law, mortgage lenders who make federally related mortgages, as defined in title 12 U.S.C. 2602, are required to provide a good-faith estimate of the amount or range of charges the borrower is likely to incur for specific settlement services. The bill would require such mortgage lenders to include in each good-faith estimate a conspicuous statement that flood insurance coverage for residential real estate is generally available under the National Flood Insurance Program whether or not the real estate is located in an area having special flood hazards and that to obtain such coverage, a home owner or purchaser should contact the NFIP. The good-faith estimate also would be required to contain a telephone number and Web site address by which a home owner or purchaser can contact the NFIP. Finally, the estimate would be required to contain the statement that the escrowing of flood insurance premiums is required for many loans under section 102(d) of the Flood Disaster Protection Act of 1973, and may be a convenient and available option with respect to other loans. According to industry representatives, the cost for mortgage lenders to include the required additional statements in such an estimate would be minimal.

Estimate prepared by: Federal Costs: Daniel Hoople; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, 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 general welfare of the United States) and clause 3 (relating to the power to regulate 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.

EARMARK IDENTIFICATION

H.R. 3121 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

EXCHANGE OF COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, September 21, 2007.

Hon. BARNEY FRANK,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR CHAIRMAN FRANK: I write to you regarding H.R. 3121, the "Flood Insurance Reform and Modernization Act of 2007".

H.R. 3121 contains provisions that fall within the jurisdiction of the Committee on Transportation and Infrastructure. I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I will not seek a sequential referral of the bill. However, I agree to waive consideration of this bill with the mutual understanding that my decision to forego a sequential referral of the bill does not waive, reduce, or otherwise affect the jurisdiction of the Committee on Transportation and Infrastructure over H.R. 3121.

Further, the Committee on Transportation and Infrastructure reserves the right to seek the appointment of conferees during any House-Senate conference convened on this legislation on provisions of the bill that are within the Committee's jurisdiction. I ask for your commitment to support any request by the Committee on Transportation and Infrastructure for the appointment of conferees on H.R. 3121 or similar legislation.

Please place a copy of this letter and your response acknowledging the Committee on Transportation and Infrastructure's jurisdictional interest in the Committee Report on H.R. 3121 and in the Congressional Record during consideration of the measure on the House Floor.

I look forward to working with you as we prepare to pass this important legislation.

Sincerely,

JAMES L. OBERSTAR, M.C.,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, September 20, 2007.

Hon. JAMES L. OBERSTAR,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 3121, the "Flood Insurance Reform and Modernization Act of 2007". This bill was introduced on July 19, 2007, and has been ordered reported by the Committee on Financial Services. It is my expecta-

tion that this legislation will be scheduled for floor consideration shortly.

I recognize that certain provisions in the bill fall within the jurisdiction of the Committee on Transportation and Infrastructure under Rule X of the Rules of the House of Representatives. However, I appreciate your willingness to forego action on this legislation in order to allow the bill to come to the floor expeditiously. I agree that your decision will not prejudice the Committee on Transportation and Infrastructure with respect to its jurisdictional prerogatives on this or similar legislation. I will support appropriate representation from the Transportation Committee in the event of a House-Senate conference on this bill or similar legislation.

I will include this exchange of correspondence in the Committee report and in the Congressional Record during consideration of this measure on the floor. Thank you again for your cooperation in this important matter.

BARNEY FRANK,
Chairman.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1—Short title and table of contents

This Act may be cited as the “Flood Insurance Reform and Modernization Act of 2007.”

Section 2—Findings and Purposes

This section sets forth findings regarding the need for reform of the NFIP and establishes the purposes of the Act.

Section 3—Study regarding status of pre-FIRM properties and mandatory purchase requirement for natural 100-year floodplain and non-federally related loans

This section requires the Government Accountability Office (“GAO”) to conduct a study on the effects of extending the mandatory flood insurance purchase requirement to all properties located in a flood hazard area, whether or not the mortgage on the property is federally-backed. This section also requires the GAO to study coverage for pre-FIRM properties, as well as the effects of extending the mandatory purchase requirement to properties protected by dams and levees. This report is to be submitted to the Congress no later than 6 months from enactment.

Section 4—Phase-in of actuarial rates for non-residential properties and non-primary residences

This section requires the phase-in of actuarial rates (or the phase-out of subsidized rates), for pre-FIRM nonresidential properties and non-primary residences beginning on January 1, 2011. The phase-in does not apply to multifamily rental properties or rentals that are the primary residence of a tenant.

Section 5—Exception to waiting period for effective date of policies

This section makes flood insurance coverage effective immediately when a policy is purchased within 30 days of purchase or transfer of the property.

Section 6—Enforcement (increasing penalties for lender non-compliance)

This section increases to \$2,000 the fine levied against federally-regulated lending institutions for each failure to enforce mandatory flood insurance purchase requirements and increases the annual cap on fines for institutions to \$1 million. This cap will not apply to institutions that were assessed a penalty of \$1 million in any three of the last five years. This section also contains a “safe harbor” provision for lending institutions that make a good faith effort to comply with mandatory flood insurance purchase requirements, or if such a violation is not material in nature.

Section 7—Multiperil coverage for flood and windstorm

This section expands the NFIP to make optional wind coverage available to NFIP participants. This section requires premiums for the new, optional coverage to be charged at actuarial rates and be based on risk, so that the program would be required to collect enough premiums to pay reasonably anticipated claims.

Under this section, optional wind coverage would be available where local governments agree to adopt land use and control measures designed to minimize wind damage, in addition to the existing flood program requirements for flood plain management. The multiple peril residential policy limits are \$500,000 for the structures and \$150,000 for contents and loss of use. Limits for nonresidential properties are up to \$1,000,000 for structure and \$750,000 for contents and business interruption.

The NFIP may not offer new multiple-peril policies or renew existing multiple-peril policies during any time the NFIP borrows money to pay multiple-peril policy claims.

The effective date for coverage under this section is June 30, 2008.

Section 8—Maximum coverage limits

This section increases the maximum coverage limits for flood insurance policies. New coverage limits are \$335,000 for residences; \$135,000 for residential contents; and \$670,000 for nonresidential properties.

Section 9—Coverage for additional living expenses, basement improvements, business interruption, and replacement cost of contents

This section requires FEMA to include in each renewal or new contract for flood insurance at least \$1,000 for living expenses following a flood event. This section also requires FEMA to provide actuarially-priced, optional residential basement coverage for flood losses. Optional, actuarially-priced business interruption coverage for flood losses is also to be provided by FEMA for commercial properties (including multifamily rental properties). This section also requires FEMA to provide optional, full replacement cost contents coverage for both residential and commercial properties.

Section 10—Notification to tenants of availability of contents coverage

This section requires FEMA to provide copies of the notice document to insured landlords, in order to strongly encourage landlords

to provide tenants with this notice, so that tenants may be informed about the property's location in a flood zone, the availability of flood insurance coverage, and how to purchase the coverage. This provision does not include penalties in the event that FEMA does not comply with this section or a landlord fails to distribute the notice.

Section 11—Increase in annual limitation on premium increases

This section increases the annual limitation on premium increases from 10 percent to 15 percent.

Section 12—Increase in borrowing authority

This section increases the NFIP's borrowing authority to \$21.5 billion from the current \$20.775 billion. This section also requires that FEMA submit a report to Congress, not later than 6 months after enactment of this legislation, on how it intends to repay, within 10 years, all funds borrowed, including amounts previously borrowed but not repaid.

Section 13—FEMA participation in State disaster claims mediation programs

This section requires FEMA, upon request of a state insurance commissioner, to participate in a state disaster claims mediation program for the non-binding mediation of flood insurance claims. However, this section stipulates that participation in the mediation program will not affect contract or tort liability, or the exclusive jurisdiction of the Federal courts to hear disputes involving the NFIP. Further, this section does not require the NFIP to pay additional mediation fees upon participation.

Section 14—FEMA annual report on insurance program

This section requires FEMA to report annually to Congress on the financial status of the NFIP.

Section 15—Flood insurance outreach

This section creates a competitive grant program for communities that encourage homeowners to purchase flood insurance, where those homeowners are not legally required to do so, and in general, educate all residents about the benefits of flood insurance. This section also requires FEMA to report to Congress within 60 days of enactment a description of its marketing and outreach efforts to educate consumers on the benefits of obtaining flood insurance.

Section 16—Grants for direct funding of mitigation activities for individual repetitive claims properties

This section provides a technical fix from 2004 flood insurance legislation to clarify that the FEMA Director may work directly with property owners to make mitigation grants for certain repetitive loss properties where States or communities are either unable or unwilling to address repetitive loss issues with a property owner.

Section 17—Extension of pilot program for mitigation of severe repetitive loss properties

This section extends the pilot program, which was created in the 2004 flood insurance legislation, through September 30, 2012.

Section 18—Flood Mitigation Assistance Program

This section provides for technical fixes to the 2004 flood insurance legislation by: (1) adding demolition and rebuilding as an allowable mitigation activity under the Flood Mitigation Assistance (“FMA”) program (in some cases, demolition and rebuilding is a more feasible and cost effective mitigation option); (2) removing the per state and per community caps on FMA to allow FEMA to better use FMA funds where needed; and (3) prevents FEMA from increasing policy premiums to cover FMA.

Section 19—GAO study of methods to increase flood insurance program participation by low-income families

This section requires the GAO to study and report on methods to increase participation of low-income families in the flood insurance program. This report is to be submitted to Congress no later than 12 months from enactment.

Section 20—Notice of availability of flood insurance and escrow in RESPA Good Faith Estimate

This section requires disclosure in the Real Estate Settlement Procedures Act Good Faith Estimate about the availability of flood insurance and clarifies that the disclosure state that flood insurance is available whether or not a property is in a flood zone.

Section 21—Reiteration of FEMA responsibilities under 2004 reform act

This section requires FEMA, within 90 days of enactment, to establish an appeals process for claims. FEMA must continue to work with state regulators and the industry to implement minimum agent training requirements. FEMA must report to Congress after six months on the status of implementing all 2004 reforms.

Section 22—Ongoing modernization of flood maps and elevation standards

This section makes the map modernization program ongoing; requires the mapping of the 500-year floodplain (but such 500-year mapping may not delay the mapping of a community’s 100-year floodplain map); gives priority in updating maps to areas affected by hurricanes Katrina and Rita; creates a responsibility for FEMA to educate communities about map updates; and establishes the trigger for pre-FIRM subsidy phase out of second and vacation homes as of January 1, 2011. This provision also authorizes appropriations for mapping of \$400 million annually, an increase from the current appropriated level of \$200 million. This section also makes the Technical Mapping Advisory Council ongoing (and adds a real estate professional to the Council). The section also provides that if a map must be updated to reflect changes to protective structures under the jurisdiction of the Federal Government, the cost of such update will not be at the expense of the community.

Also, this section provides that FEMA may issue interim flood elevations after a flood-related disaster.

Section 23—Notification and appeal of map changes; notification of establishment of flood elevations

This section requires FEMA to provide map change information to affected communities, and requires a notice in local newspapers of map changes, a description of the appeals process, and contact information for an appeal.

Section 24—Clarification of replacement cost provisions, forms, and policy language

This section requires FEMA, within 3 months of enactment, to issue regulations and revise materials to provide a plain language clarification of replacement cost coverage; revise flood insurance policies to be consistent with language in homeowners policies; and require the use of plain language forms developed pursuant to the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004.

Section 25—Authorization of additional FEMA staff

This section authorizes necessary funds be appropriated for the Director of FEMA to employ additional staff necessary to carry out all of the responsibilities required by this bill.

Section 26—Extension of deadline for filing proof of loss

This section extends the deadline for filing the proof of loss associated with a flood insurance claim from 60 days to 180 days.

Section 27—5-year extension of program

This section reauthorizes the NFIP for five years through 2013. The current authorization of the NFIP expires in 2008.

Section 28—Report on inclusion of building codes in floodplain management criteria

This section requires FEMA to conduct a study and report to Congress not later than six months after enactment regarding the use of nationally recognized building codes as part of floodplain management.

Section 29—Study of economic effects of charging actuarially-based premium rates for pre-FIRM structures

This section requires FEMA to conduct a study and report to Congress within 12 months of enactment regarding the economic effects of removing the subsidy for pre-FIRM properties.

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

BASIC AUTHORITY

SEC. 1304. (a) * * *

* * * * *

(c) *MULTIPERIL COVERAGE FOR DAMAGE FROM FLOOD OR WINDSTORM.*—

(1) *IN GENERAL.*—Subject to paragraph (8), the national flood insurance program established pursuant to subsection (a) shall enable the purchase of optional insurance against loss resulting from physical damage to or loss of real property or personal property related thereto located in the United States arising from any flood or windstorm, subject to the limitations in this subsection and section 1306(b).

(2) *COMMUNITY PARTICIPATION REQUIREMENT.*—Multiperil coverage pursuant to this subsection may not be provided in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate land use and control measures (with effective enforcement provisions) which the Director finds are consistent with the comprehensive criteria for land management and use relating to windstorms establish pursuant to section 1361(d)(2).

(3) *PROHIBITION AGAINST DUPLICATIVE COVERAGE.*—Multiperil coverage pursuant to this subsection may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by flood insurance coverage made available under this title.

(4) *NATURE OF COVERAGE.*—Multiperil coverage pursuant to this subsection shall—

(A) cover losses only from physical damage resulting from flooding or windstorm; and

(B) provide for approval and payment of claims under such coverage upon proof that such loss must have resulted from either windstorm or flooding, but shall not require for approval and payment of a claim that the specific cause of the loss, whether windstorm or flooding, be distinguished or identified.

(5) *ACTUARIAL RATES.*—Multiperil coverage pursuant to this subsection shall be made available for purchase for a property only at chargeable risk premium rates that, based on consideration of the risks involved and accepted actuarial principles, and including operating costs and allowance and administrative expenses, are required in order to make such coverage available on an actuarial basis for the type and class of properties covered.

(6) *TERMS OF COVERAGE.*—The Director shall, after consultation with persons and entities referred to in section 1306(a), provide by regulation for the general terms and conditions of insurability which shall be applicable to properties eligible for multiperil coverage under this subsection, subject to the provisions of this subsection, including—

(A) the types, classes, and locations of any such properties which shall be eligible for such coverage, which shall include residential and nonresidential properties;

(B) subject to paragraph (7), the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such coverage;

(C) the classification, limitation, and rejection of any risks which may be advisable;

(D) appropriate minimum premiums;

(E) appropriate loss deductibles; and

(F) any other terms and conditions relating to insurance coverage or exclusion that may be necessary to carry out this subsection.

(7) *LIMITATIONS ON AMOUNT OF COVERAGE.*—The regulations issued pursuant to paragraph (6) shall provide that the aggregate liability under multiperil coverage made available under this subsection shall not exceed the lesser of the replacement cost for covered losses or the following amounts, as applicable:

(A) *RESIDENTIAL STRUCTURES.*—In the case of residential properties—

(i) for any single-family dwelling, \$500,000; and

(ii) for any structure containing more than one dwelling unit, \$500,000 for each separate dwelling unit in the structure; and

(iii) \$150,000 per dwelling unit for—

(I) any contents related to such unit; and

(II) any necessary increases in living expenses incurred by the insured when losses from flooding or windstorm make the residence unfit to live in.

(B) *NONRESIDENTIAL PROPERTIES.*—In the case of nonresidential properties (including church properties)—

(i) \$1,000,000 for any single structure; and

(ii) \$750,000 for—

(I) any contents related to such structure;

(II) in the case of any nonresidential property that is a business property, any losses resulting from any partial or total interruption of the insured's business caused by damage to, or loss of, such property from flooding or windstorm, except that for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood or windstorm not occurred.

(8) *REQUIREMENT TO CEASE OFFERING COVERAGE IF BORROWING TO PAY CLAIMS.*—If at any time the Director utilizes the borrowing authority under section 1309(a) for the purpose of obtaining amounts to pay claims under multiperil coverage made available under this subsection, the Director may not, during

the period beginning upon the initial such use of such borrowing authority and ending upon repayment to the Secretary of the Treasury of the full amount of all outstanding notes and obligations issued by the Director for such purpose, together with all interest owed on such notes and obligations, enter into any new policy, or renew any existing policy, for coverage made available under this subsection.

(9) *EFFECTIVE DATE.*—*This subsection shall take effect on, and shall apply beginning on, June 30, 2008.*

[(c)] (d) In carrying out the flood insurance program the Director shall, to the maximum extent practicable, encourage and arrange for—

(1) * * *

* * * * *

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 1306. (a) * * *

(b) In addition to any other terms and conditions under subsection (a), such regulations shall provide that—

(1) * * *

(2) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant of insurance so as to enable such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(i)) of ~~[\$250,000]~~ \$335,000;

(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(ii)) of ~~[\$100,000]~~ \$135,000;

(4) in the case of any nonresidential property, including churches, for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of ~~[\$500,000]~~ \$670,000 for each structure and ~~[\$500,000]~~ \$670,000 for any contents related to each structure; ~~[and]~~

(5) any flood insurance coverage pursuant to paragraph (2), (3), or (4) which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates

under section 1307(a)(1), and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable[.];

(6) *in the case of any residential property, each renewal or new contract for flood insurance coverage shall provide not less than \$1,000 aggregate liability per dwelling unit for any necessary increases in living expenses incurred by the insured when losses from a flood make the residence unfit to live in, which coverage shall be available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);*

(7) *in the case of any residential property, optional coverage for additional living expenses described in paragraph (6) shall be made available to every insured upon renewal and every applicant in excess of the limits provided in paragraph (6) in such amounts and at such rates as the Director shall establish, except that such chargeable rates shall not be less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);*

(8) *in the case of any residential property, optional coverage for losses, resulting from floods, to improvements and personal property located in basements, crawl spaces, and other enclosed areas under buildings that are not covered by primary flood insurance coverage under this title, shall be made available to every insured upon renewal and every applicant, except that such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);*

(9) *in the case of any commercial property or other residential property, including multifamily rental property, optional coverage for losses resulting from any partial or total interruption of the insured's business caused by damage to, or loss of, such property from a flood shall be made available to every insured upon renewal and every applicant, except that—*

(A) for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood not occurred; and

(B) such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1); and

(10) *in the case of any residential property and any commercial property, optional coverage for the full replacement costs of any contents related to the structure that exceed the limits of coverage otherwise provided in this subsection shall be made available to every insured upon renewal and every applicant, except that such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1).*

(c) **EFFECTIVE DATE OF POLICIES.—**

(1) * * *

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to—

(A) the initial purchase of flood insurance coverage under this title when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan *or is in connection with the purchase or other transfer of the property for which the coverage is provided (regardless of whether a loan is involved in the purchase or transfer transaction), but only when such initial purchase of coverage is made not later 30 days after such making, increasing, extension, or renewal of the loan or not later than 30 days after such purchase or other transfer of the property, as applicable; or*

* * * * *

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 1308. (a) * * *

* * * * *

(c) ACTUARIAL RATE PROPERTIES.—Subject only to [the limitations provided under paragraphs (1) and (2)] *subsection (e)*, 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) NONRESIDENTIAL PROPERTIES.—*Any nonresidential property, which term shall not include any multifamily rental property that consists of four or more dwelling units.*

(3) NON-PRIMARY RESIDENCES.—*Any residential property that is not the primary residence of any individual, including the owner of the property or any other individual who resides in the property as a tenant.*

[(2)] (4) 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.—Except with respect to properties described under [paragraph (2) or (3)] *paragraph (4)* 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] *15 per-*

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

* * * * *

SEC. 1308A. NOTIFICATION TO TENANTS OF AVAILABILITY OF CONTENTS INSURANCE.

(a) *IN GENERAL.*—The Director shall, upon entering into a contract for flood insurance coverage under this title for any property located in an area having special flood hazards—

(1) provide to the insured sufficient copies of the notice developed pursuant to subsection (b); and

(2) strongly encourage the insured to provide a copy of the notice, or otherwise provide notification of the information under subsection (b) in the manner that the manager or landlord deems most appropriate, to each such tenant and to each new tenant upon commencement of such a tenancy.

(b) *NOTICE.*—Notice to a tenant of a property in accordance with this subsection is written notice that clearly informs a tenant—

(1) that the property is located in an area having special flood hazards;

(2) that flood insurance coverage is available under the national flood insurance program under this title for contents of the unit or structure leased by the tenant;

(3) of the maximum amount of such coverage for contents available under this title at that time; and

(4) of where to obtain information regarding how to obtain such coverage, including a telephone number, mailing address, and location on the World Wide Web of the Director where such information is available.

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 the date specified in section 1319, and \$1,000,000,000 thereafter; except that, through September 30, 2008, clause (2) of this sentence shall be applied by substituting “**[\$20,775,000,000]** \$21,500,000,000” for “\$1,500,000,000”. 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) * * *

* * * * *

(9) for funding, not to exceed \$10,000,000 in any fiscal year, *which shall remain available until expended*, 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.

* * * * *

PAYMENT OF CLAIMS

SEC. 1312. (a) *PAYMENT.*—The Director is authorized to prescribe regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by flood insurance made available under the provisions of this title.

(b) *FILING DEADLINE FOR PROOF OF LOSS.*—

(1) *IN GENERAL.*—*In establishing any requirements regarding notification, proof, or approval of claims for damage to or loss of property which is covered by flood insurance made available under this title, the Director may not require an insured to notify the Director of such damage or loss, submit a claim for such damage or loss, or certify to or submit proof of such damage or loss, before the expiration of the 180-day period that begins on the date that such damage or loss occurred.*

(2) *EXCEPTIONS.*—*Notwithstanding any deadline established in accordance with paragraph (1), the Director may not deny a claim for damage or loss described in such paragraph solely for failure to meet such deadline if the insured demonstrates any good cause for such failure.*

* * * * *

PROHIBITION AGAINST DUPLICATIVE COVERAGE

SEC. 1314. *Flood insurance under this title may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by multiperil insurance coverage made available pursuant to section 1304(c).*

* * * * *

PROPERTIES IN VIOLATION OF STATE AND LOCAL LAW

SEC. 1316. (a) *FLOOD PROTECTION MEASURES.*—No new flood insurance coverage shall be provided under this title for any property which the Director finds has been declared by a duly constituted

State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(b) *WINDSTORM PROTECTION MEASURES.*—No new multiperil coverage shall be provided under section 1304(c) for any property that the Director finds has been declared by a duly constituted State or local zoning authority, or other authorized public body to be in violation of State or local laws, regulations, or ordinances, which are intended to reduce damage caused by windstorms.

* * * * *

PROGRAM EXPIRATION

SEC. 1319. No new contract for flood insurance under this title shall be entered into after **【September 30, 2008】** *September 30, 2013.*

【REPORT TO THE PRESIDENT】 ANNUAL REPORT TO CONGRESS

SEC. 1320. (a) *IN GENERAL.*—The Director shall **【biennially】** submit a report of operations under this title to **【the President for submission to】** the Congress *not later than June 30 of each year.*

(b) *EFFECTS OF FLOOD INSURANCE PROGRAM.*—The Director shall include, as part of the **【biennial】** *annual* report submitted under subsection (a), a chapter reporting on the effects on the flood insurance program observed through implementation of requirements under the Riegle Community Development and Regulatory Improvement Act of 1994.

(c) *FINANCIAL STATUS OF PROGRAM.*—*The report under this section for each year shall include information regarding the financial status of the national flood insurance program under this title, including a description of the financial status of the National Flood Insurance Fund and current and projected levels of claims, premium receipts, expenses, and borrowing under the program.*

* * * * *

SEC. 1323. DIRECT GRANTS FOR REPETITIVE INSURANCE CLAIMS PROPERTIES.

(a) *IN GENERAL.*—The Director may provide funding, *to owners of such properties*, for mitigation actions that reduce flood damages to individual properties for which **【1】** *two* or more claim payments for losses have been made under flood insurance coverage under this title, but only if the Director determines that—

(1) * * *

* * * * *

SEC. 1325. FEMA PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.

(a) *REQUIREMENT TO PARTICIPATE.*—*In the case of the occurrence of a natural catastrophe that may have resulted in flood damage covered by insurance made available under the national flood insurance program and a loss covered by personal lines residential property insurance policy, upon request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Director in a program sponsored by such State for non-*

binding mediation of insurance claims resulting from a natural catastrophe, the Director shall cause such representatives to participate in such State program, when claims under the national flood insurance program are involved, to expedite settlement of flood damage claims resulting from such catastrophe.

(b) EXTENT OF PARTICIPATION.—Participation by representatives of the Director required under subsection (a) with respect to flood damage claims resulting from a natural catastrophe shall include—

(1) providing adjusters certified for purposes of the national flood insurance program who are authorized to settle claims against such program resulting from such catastrophe in amounts up to the limits of policies under such program;

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

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

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

(c) COORDINATION.—Representatives of the Director who participate pursuant to this section in a State-sponsored mediation program with respect to a natural catastrophe shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purpose of consolidating and expediting the settlement of claims under the national flood insurance program resulting from such catastrophe at the earliest possible time.

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

(e) EFFECT OF PARTICIPATION ON LIABILITY, RIGHT, AND OBLIGATIONS.—Participation of Representatives of the Director pursuant to this section in State-sponsored mediation shall not affect or expand the liability of any party in contract or in tort, nor shall it affect the rights or obligations of the parties as provided in the Standard Flood Insurance Policy under the national flood insurance program, regulations of the Federal Emergency Management Agency, this Act, or Federal common law.

(f) EXCLUSIVE FEDERAL JURISDICTION.—Participation of Representatives of the Director pursuant to this section in State-sponsored mediation shall not alter, change or modify the original exclusive jurisdiction of United States courts as provided in this Act.

(g) COST LIMITATION.—Nothing in this section shall be construed to require the Director or representatives of the Director to pay additional mediation fees relating to flood claims associated with a State-sponsored mediation program in which representatives of the Director participate.

(h) EXCEPTION.—In the case of the occurrence of a natural catastrophe that results in flood damage claims under the national flood

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

(1) this section shall not apply; and

(2) the provisions of the Standard Flood Insurance Policy under the national flood insurance program and the appeals process established pursuant to section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108–264; 118 Stat. 726) and regulations issued pursuant to such section shall apply exclusively.

(i) **REPRESENTATIVES OF DIRECTOR.**—For purposes of this section, the term “representatives of the Director” means representatives of the national flood insurance program who participate in the appeals process established pursuant to section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108–264; 118 Stat. 726) and regulations issued pursuant to such section.

SEC. 1326. GRANTS FOR OUTREACH TO PROPERTY OWNERS AND RENTERS.

(a) **IN GENERAL.**—The Director may, to the extent amounts are made available pursuant to subsection (h), make grants to local governmental agencies responsible for floodplain management activities (including such agencies of Indians tribes, as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)) in communities that participate in the national flood insurance program under this title, for use by such agencies to carry out outreach activities to encourage and facilitate the purchase of flood insurance protection under this Act by owners and renters of properties in such communities and to promote educational activities that increase awareness of flood risk reduction.

(b) **OUTREACH ACTIVITIES.**—Amounts from a grant under this section shall be used only for activities designed to—

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

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

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

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

(5) encourage such owners and renters to maintain or acquire such coverage.

(c) **COST SHARING REQUIREMENT.**—

(1) **IN GENERAL.**—In any fiscal year, the Director may not provide a grant under this section to a local governmental agency

in an amount exceeding 3 times the amount that the agency certifies, as the Director shall require, that the agency will contribute from non-Federal funds to be used with grant amounts only for carrying out activities described in subsection (b).

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

(d) ADMINISTRATIVE COST LIMITATION.—Notwithstanding subsection (b), the Director may use not more than 5 percent of amounts made available under subsection (g) to cover salaries, expenses, and other administrative costs incurred by the Director in making grants and provide assistance under this section.

(e) APPLICATION AND SELECTION.—

(1) IN GENERAL.—The Director shall provide for local governmental agencies described in subsection (a) to submit applications for grants under this section and for competitive selection, based on criteria established by the Director, of agencies submitting such applications to receive such grants.

(2) SELECTION CONSIDERATIONS.—In selecting applications of local government agencies to receive grants under paragraph (1), the Director shall consider—

(A) the existence of a cooperative technical partner agreement between the local governmental agency and the Federal Emergency Management Agency;

(B) the history of flood losses in the relevant area that have occurred to properties, both inside and outside the special flood hazards zones, which are not covered by flood insurance coverage;

(C) the estimated percentage of high-risk properties located in the relevant area that are not covered by flood insurance;

(D) demonstrated success of the local governmental agency in generating voluntary purchase of flood insurance; and

(E) demonstrated technical capacity of the local governmental agency for outreach to individual property owners.

(f) DIRECT OUTREACH BY FEMA.—In each fiscal year that amounts for grants are made available pursuant to subsection (h), the Director may use not more than 50 percent of such amounts to carry out, and to enter into contracts with other entities to carry out, activities described in subsection (b) in areas that the Director determines have the most immediate need for such activities.

(g) REPORTING.—Each local government agency that receives a grant under this section, and each entity that receives amounts pursuant to subsection (f), shall submit a report to the Director, not later than 12 months after such amounts are first received, which shall include such information as the Director considers appropriate to describe the activities conducted using such amounts and the effect of such activities on the retention or acquisition of flood insurance coverage.

(h) *AUTHORIZATION OF APPROPRIATIONS.*—*There is authorized to be appropriated for grants under this section \$50,000,000 for each of fiscal years 2008 through 2012.*

* * * * *

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

IDENTIFICATION OF FLOOD-PRONE AREAS

SEC. 1360. (a) * * *

* * * * *

(f) *UPDATING FLOOD MAPS.*—*The Director shall revise and update any floodplain areas and flood-risk zones—*

(1) * * *

(2) *upon the request from any State or local government stating that specific floodplain areas or flood-risk zones in the State or locality need revision or updating, if sufficient technical data justifying the request is submitted and the unit of government making the request agrees to provide funds in an amount determined by the Director, but which may not exceed 50 percent of the cost of carrying out the requested revision or update, except that such a revision or update shall be made at no cost to the unit of government making the request if the request is being made to reflect repairs and upgrades to dams, levees, or other flood control projects under the jurisdiction and responsibility of the Federal Government.*

* * * * *

(k) *ONGOING PROGRAM TO REVIEW, UPDATE, AND MAINTAIN FLOOD INSURANCE PROGRAM MAPS.*—

(1) *IN GENERAL.*—*The Director, in coordination with the Technical Mapping Advisory Council established pursuant to section 576 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note) and section 22(b) of the Flood Insurance Reform and Modernization Act of 2007, shall establish an ongoing program under which the Director shall review, update, and maintain national flood insurance program rate maps in accordance with this subsection.*

(2) *INCLUSIONS.*—

(A) *COVERED AREAS.*—*Each map updated under this subsection shall include a depiction of—*

(i) *the 500-year floodplain;*

(ii) *areas that could be inundated as a result of the failure of a levee, as determined by the Director; and*

(iii) *areas that could be inundated as a result of the failure of a dam, as identified under the National Dam Safety Program Act (33 U.S.C. 467 et seq.).*

(B) *OTHER INCLUSIONS.*—*In updating maps under this subsection, the Director may include—*

(i) *any relevant information on coastal inundation from—*

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

- (II) data of the National Oceanic and Atmospheric Administration relating to storm surge modeling;
- (ii) any relevant information of the Geographical Service on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Director; and
- (iii) a description of any hazard that might impact flooding, including, as determined by the Director—
 - (I) land subsidence and coastal erosion areas;
 - (II) sediment flow areas;
 - (III) mud flow areas;
 - (IV) ice jam areas; and
 - (V) areas on coasts and inland that are subject to the failure of structural protective works, such as levees, dams, and floodwalls.
- (3) *STANDARDS.*—In updating and maintaining maps under this subsection, the Director shall establish standards to—
 - (A) ensure that maps are adequate for—
 - (i) flood risk determinations; and
 - (ii) use by State and local governments in managing development to reduce the risk of flooding;
 - (B) facilitate the Director, in conjunction with State and local governments, to identify and use consistent methods of data collection and analysis in developing maps for communities with similar flood risks, as determined by the Director; and
 - (C) ensure that emerging weather forecasting technology is used, where practicable, in flood map evaluations and the identification of potential risk areas.
- (4) *HURRICANES KATRINA AND RITA MAPPING PRIORITY.*—In updating and maintaining maps under this subsection, the Director shall—
 - (A) give priority to the updating and maintenance of maps of coastal areas affected by Hurricane Katrina or Hurricane Rita to provide guidance with respect to hurricane recovery efforts; and
 - (B) use the process of updating and maintaining maps under subparagraph (A) as a model for updating and maintaining other maps.
- (5) *PREVENTING DELAY OF 100-YEAR MAPS.*—In carrying out this section and this subsection, the Director shall take such actions as may be necessary to ensure that updating and publication of national flood insurance program rate maps to include a depiction of the 500-year floodplain does not in any manner delay the completion or publication of the program rate maps for the 100-year floodplain.
- (6) *EDUCATION PROGRAM.*—The Director shall, after each update to a flood insurance program rate map, in consultation with the chief executive officer of each community affected by the update, conduct a program to educate each such community about the update to the flood insurance program rate map and the effects of the update.
- (7) *ANNUAL REPORT.*—Not later than June 30 of each year, the Director shall submit a report to the Congress describing,

for the preceding 12-month period, the activities of the Director under the program under this section and the reviews and updates of flood insurance program rate maps conducted under the program. Each such annual report shall contain the most recent report of the Technical Mapping Advisory Council pursuant to section 576(c)(3) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note).

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

(l) **INTERIM POST-DISASTER FLOOD ELEVATIONS.**—

(1) **AUTHORITY.**—Notwithstanding any other provision of this section or section 1363, the Director may, after any flood-related disaster, establish by order interim flood elevation requirements for purposes of the national flood insurance program for any areas affected by such flood-related disaster.

(2) **EFFECTIVENESS.**—Such interim elevation requirements for such an area shall take effect immediately upon issuance and may remain in effect until the Director establishes new flood elevations for such area in accordance with section 1363 or the Director provides otherwise.

CRITERIA FOR LAND MANAGEMENT AND USE

SEC. 1361. (a) * * *

* * * * *

(d) **WINDSTORMS.**—

(1) **STUDIES AND INVESTIGATIONS.**—The Director shall carry out studies and investigations under this section to determine appropriate measures in windstorm-prone areas as to land management and use, windstorm zoning, and windstorm damage prevention, and may enter into contracts, agreements, and other appropriate arrangements to carry out such activities. Such studies and investigations shall include laws, regulations, and ordinance relating to the orderly development and use of areas subject to damage from windstorm risks, and zoning building codes, building permits, and subdivision and other building restrictions for such areas.

(2) **CRITERIA.**—On the basis of the studies and investigations pursuant to paragraph (1) and such other information as may be appropriate, the Director shall establish comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will assist in reducing damage caused by windstorms.

(3) **COORDINATION WITH STATE AND LOCAL GOVERNMENTS.**—The Director shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of criteria established under paragraph (2) and the adoption and enforcement of measures referred to in such paragraph.

SEC. 1361A. PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

(a) * * *

* * * * *

(k) **FUNDING.**—

(1) IN GENERAL.—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 [2005, 2006, 2007, 2008, and 2009] 2008, 2009, 2010, 2011, and 2012, 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.

* * * * *

[(1) TERMINATION.—The Director may not provide assistance under this section to any State or community after September 30, 2009.]

* * * * *

APPEALS

[SEC. 1363. (a) In establishing projected flood elevations for land use purposes with respect to any community pursuant to section 1361, the Director shall first propose such determinations by publication for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper.]

SEC. 1363. (a) In establishing projected flood elevations for land use purposes with respect to any community pursuant to section 1361, the Director shall first propose such determinations—

(1) by providing the chief executive officer of each community affected by the proposed elevations, by certified mail, with a return receipt requested, notice of the elevations, including a copy of the maps for the elevations for such community and a statement explaining the process under this section to appeal for changes in such elevations;

(2) by causing notice of such elevations to be published in the Federal Register, which notice shall include information sufficient to identify the elevation determinations and the communities affected, information explaining how to obtain copies of the elevations, and a statement explaining the process under this section to appeal for changes in the elevations; and

(3) by publishing in a prominent local newspaper the elevations, a description of the appeals process for flood determinations, and the mailing address and telephone number of a person the owner may contact for more information or to initiate an appeal.

* * * * *

MITIGATION ASSISTANCE

SEC. 1366. (a) * * *

* * * * *

(e) ELIGIBLE MITIGATION ACTIVITIES.—

(1) * * *

* * * * *

(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) * * *

(B) elevation, relocation, demolition, [or floodproofing] floodproofing, or demolition and rebuilding of structures (including public structures) located in areas having special flood hazards or other areas of flood risk;

* * * * *

[(f) LIMITATIONS ON AMOUNT OF ASSISTANCE.—

[(1) AMOUNT.—The sum of the amounts of mitigation assistance provided under this section during any 5-year period may not exceed—

[(A) \$10,000,000, to any State; or

[(B) \$3,300,000, to any community.

[(2) GEOGRAPHIC.—The sum of the amounts of mitigation assistance provided under this section during any 5-year period to any one State and all communities located in such State may not exceed \$20,000,000.

[(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.]

[(g)] (f) MATCHING REQUIREMENT.—

(1) * * *

* * * * *

[(h)] (g) OVERSIGHT OF MITIGATION PLANS.—The Director shall conduct oversight of recipients of mitigation assistance under this section to ensure that the assistance is used in compliance with the approved mitigation plans of the recipients and that matching funds certified under [subsection (g)] subsection (f) are used in accordance with such certification.

[(i)] (h) RECAPTURE.—

(1) * * *

(2) FAILURE TO PROVIDE MATCHING FUNDS.—If the Director determines that a State or community that has received mitigation assistance under this section has not provided matching funds in the amount certified under [subsection (g)] subsection (f), the Director shall recapture any unexpended amounts of mitigation assistance exceeding 3 times the amount of such matching funds actually provided and deposit the amounts in the National Flood Mitigation Fund under section 1367.

[(j)] (i) 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.

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

(1) * * *

* * * * *

[(m)] (k) COORDINATION WITH STATES AND COMMUNITIES.—The Director shall, in consultation and coordination with States and communities take such actions as are appropriate to encourage and improve participation in the national flood insurance program of owners of properties, including owners of properties that are not located in areas having special flood hazards (the 100-year floodplain), but are located within flood prone areas.

NATIONAL FLOOD MITIGATION FUND

SEC. 1367. (a) ESTABLISHMENT AND AVAILABILITY.—The Director shall establish in the Treasury of the United States a fund to be known as the National Flood Mitigation Fund, which shall be credited with amounts described in subsection (b) and shall be available, to the extent provided in appropriation Acts, for providing assistance under section 1366. *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.*

* * * * *

CHAPTER IV—APPROPRIATIONS AND MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 1370. (a) As used in this title—

(1) * * *

* * * * *

(14) the term “servicer” means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan; [and]

(15) the term “substantially damaged structure” means a structure covered by a contract for flood insurance that has incurred damage for which the cost of repair exceeds an amount specified in any regulation promulgated by the Director, or by a community ordinance, whichever is lower[.]; and

(16) the term “windstorm” means any hurricane, tornado, cyclone, typhoon, or other wind event.

* * * * *

FLOOD DISASTER PROTECTION ACT OF 1973

* * * * *

TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

* * * * *

FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND
ESCROW ACCOUNTS

SEC. 102. (a) * * *

* * * * *

(f) CIVIL MONETARY PENALTIES FOR FAILURE TO REQUIRE FLOOD
INSURANCE OR NOTIFY.—

(1) * * *

* * * * *

(5) AMOUNT.—A civil monetary penalty under this subsection may not exceed ~~【\$350】~~ \$2,000 for each violation under paragraph (2) or paragraph (3). The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed ~~【\$100,000】~~ \$1,000,000; *except that such limitation shall not apply to a regulated lending institution or enterprise for a calendar year if, in any three (or more) of the five calendar years immediately preceding such calendar year, the total amount of penalties assessed under this subsection against such lending institution or enterprise was \$1,000,000.*

(6) LENDER COMPLIANCE.—Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b). *No penalty may be imposed under this subsection on a regulated lending institution or enterprise that has made a good faith effort to comply with the requirements of the provisions referred to in paragraph (2) or for any non-material violation of such requirements.*

* * * * *

REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

* * * * *

SPECIAL INFORMATION BOOKLETS

SEC. 5. (a) * * *

* * * * *

(c) Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Secretary. *Each such good faith estimate shall include the following conspicuous statements and information: (1) that flood insurance coverage for residential real estate is generally available under the national flood insurance program whether or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact the national flood insurance program; (2) a telephone number and a location on the World Wide Web by which a home owner or purchaser can contact the national flood insurance program; and (3) that the escrowing of flood insurance payments is*

required for many loans under section 102(d) of the Flood Disaster Protection Act of 1973, and may be a convenient and available option with respect to other loans.

* * * * *

NATIONAL FLOOD INSURANCE REFORM ACT OF 1994

* * * * *

TITLE V—NATIONAL FLOOD INSURANCE REFORM

* * * * *

Subtitle F—Miscellaneous Provisions

* * * * *

SEC. 576. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) * * *

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director of the Federal Emergency Management Agency (in this section referred to as the “Director”), or the Director’s designee, and **10** 14 additional members to be appointed by the Director or the designee of the Director, who shall be—

(A) * * *

* * * * *

(E) a representative of the Corps of Engineers of the United States Army;

[(E)] *(F) a representative of the United States Geologic Survey;*

[(F)] *(G) a representative of State geologic survey programs;*

[(G)] *(H) a representative of State national flood insurance coordination offices;*

(I) a representative of local or regional flood and stormwater agencies;

(J) a representative of State geographic information coordinators;

[(H)] *(K) a representative of a regulated lending institution;*

(L) a representative of flood insurance servicing companies;

(M) a real estate professional;

[(I)] *(N) a representative of the Federal Home Loan Mortgage Corporation; and*

[(J)] *(O) a representative of the Federal National Mortgage Association.*

* * * * *

(3) TERMS OF MEMBERS.—

(A) *IN GENERAL.*—Each member of the Council pursuant to any of subparagraphs (B) through (N) of paragraph (1) shall be appointed for a term of 5 years, except as provided in subparagraphs (B) and (C).

(B) *TERMS OF INITIAL APPOINTEES.*—As designated by the Director (or the designee of the Director) at the time of appointment, of the members of the Council first appointed pursuant to subparagraph (D)—

- (i) 4 shall be appointed for a term of 1 year;
- (ii) 4 shall be appointed for a term of 3 years; and
- (iii) 5 shall be appointed for a term of 5 years.

(C) *VACANCIES.*—Any member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(D) *INITIAL APPOINTMENT.*—The Director, or the Director's designee, shall take action as soon as possible after the date of the enactment of the Flood Insurance Reform and Modernization Act of 2007 to appoint the members of the Council pursuant to this subsection.

[(c) *DUTIES.*—The Council shall—

[(1) make recommendations to the Director on how to improve in a cost-effective manner the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps;

[(2) recommend to the Director mapping standards and guidelines for flood insurance rate maps; and

[(3) submit an annual report to the Director that contains—

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

[(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as established pursuant to the amendment made by section 675 ; and

[(C) a summary of recommendations made by the Council to the Director.]]

(c) *DUTIES.*—The Council shall—

(1) make recommendations to the Director for improvements to the flood map modernization program under section 1360(k) of the National Flood Insurance Act of 1968 (42 U.S.C. 41010(k));

(2) make recommendations to the Director for maintaining a modernized inventory of flood hazard maps and information; and

(3) submit an annual report to the Director that contains a description of the activities and recommendations of the Council.

* * * * *

[(k) *TERMINATION.*—The Council shall terminate 5 years after the date on which all members of the Council have been appointed under subsection (b)(1).]]

(k) CONTINUED EXISTENCE.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to termination of advisory committees) shall not apply to the Council.

* * * * *

ADDITIONAL VIEWS OF REPRESENTATIVE BARNEY FRANK

As noted earlier in this report, this bill does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in House rules. However, there are many other items that this bill does not contain as well. I am submitting a partial list for the edification of my colleagues:

This bill does not ratify any treaties.

This bill does not confirm any Supreme Court justices.

This bill does not amend the Constitution.

BARNEY FRANK.

ADDITIONAL REPUBLICAN VIEWS

It is the view of the Republican Minority that the National Flood Insurance Program (NFIP) should be reformed and be made more actuarially sound before embarking on a massive expansion into the wind insurance business. While H.R. 3121, the “Flood Insurance Reform and Modernization Act of 2007” calls for several crucial reforms—including a phase-in of actuarially determined rates for some subsidized property owners—it also requires the NFIP to make wind coverage available to anyone purchasing flood insurance from the Federal government, in the form of a “multiple-peril” policy. The NFIP currently owes the Department of the Treasury around \$18 billion, an amount it was forced to borrow to pay claims from the 2005 hurricane season. By its own account, it will likely never be able to repay this sum. The Minority believes that although Congress should continue to examine ways to encourage better access to homeowners’ wind insurance, it would be ill-advised to force the NFIP to take on this new risk, as it could expose taxpayers to further loss and could unnecessarily interfere with the functioning of the private wind insurance market.

H.R. 3121 and other catastrophe insurance proposals before the Committee seek to address, through Federal participation, a phenomenon of rising insurance costs in coastal areas at high risk of suffering hurricanes and other storms. Higher insurance prices can often be traced to a few causes, including increased risk (based on more frequent hurricanes, higher home values, and increased construction in coastal areas), hostile regulatory and legal climates, and temporary rate spikes following major catastrophes, when insurers remodel risk, rebuild surplus, and diversify exposure. H.R. 3121 would likely not address any of these factors, and while it may provide slightly more availability in the short-term, it could ultimately displace the private market in some regions, leading to fewer choices for consumers. Although it is questionable whether FEMA would be able to carry out this mandate, the NFIP multiple-peril product would be offered at “actuarial” rates, placing the coverage out of reach for the very constituents this bill is designed to help.

At the July 17, 2007 legislative hearing on H.R. 3121, flood management groups, industry experts, the NAIC, environmental organizations, Treasury, and FEMA expressed concern over expanding the NFIP to include wind risks. These witnesses raised several questions about how the multiple-peril program would be implemented and administered, including how the new NFIP multiple-peril coverage would be priced, and how the NFIP would maintain actuarial soundness. The panel also expressed concern over the possibility that this bill could displace the private market, which generally offers wind coverage in most homeowners’ insurance policies. Instead, the panel called for a comprehensive study address-

ing several issues, including determining what effects this massive expansion could have on the current program, how it would impact the availability and affordability of wind insurance, and how the NFIP would implement this mandate.

In a June 2007 report, the Congressional Budget Office (CBO) reported that 47 percent of subsidized non-primary coastal homes and 37 percent of subsidized primary residences are worth at least \$500,000. Further, close to 90 percent of the NFIP's Severe Repetitive Loss Properties (SRLPs) currently enjoy subsidized rates. The Republican Minority believes that the chief objective of the Committee and the Congress should be reform of the existing NFIP, including the removal of subsidies over time to improve the long-term solvency of the program. In contrast, H.R. 3121 would dramatically increase the scope of the NFIP, at a time when the Government Accountability Office (GAO) includes the program on its "High Risk" Series list, recommending increased oversight by Congress. While the Minority supports the vast majority of the provisions in H.R. 3121—which are similar to the bipartisan flood insurance reform bill introduced earlier this year (H.R. 1682), and the bipartisan bill that overwhelmingly passed the House last Congress (H.R. 4973)—the inclusion of wind coverage would likely exacerbate the NFIP's administrative problems.

At the Committee's markup of H.R. 3121 Rep. Ginny Brown-Waite (FL), along with Reps. Adam Putnam (FL) and Tom Feeney (FL), offered an amendment that would strike the mandate in H.R. 3121 requiring the NFIP to offer wind insurance and would replace it with a comprehensive GAO study. Unfortunately, the Majority rejected this common-sense amendment, which would require the GAO to examine a number of factors relating to the multiple-peril program proposed in H.R. 3121, including, among other things:

- The ability of the NFIP to timely implement an actuarially-sound wind insurance program;
- The effects the expansion into wind insurance could have on flood insurance reform, including map modernization, and the phase-in of actuarial rates;
- Whether an expansion of the NFIP to include wind coverage could affect the availability and affordability of such coverage, influence the private-sector development of multiple-peril products, or result in adverse selection;
- Any potential taxpayer exposure the new program could pose, similar to the deficit resulting from the 2005 hurricane season;
- Available alternative methods that could offer policyholders more options for wind coverage; and
- Coverage gaps that would remain under most homeowners policies.

Although this amendment was not accepted, a bipartisan study request letter has been transmitted to the GAO, requiring it to conduct a study on the issues outlined above. The Minority strongly urges the Committee to closely examine any GAO findings and recommendations resulting from this study and to seriously consider implementing them.

Several other Republican amendments were adopted at Committee markup. Rep. Randy Neugebauer (TX) offered an amend-

ment to require FEMA to study and report on the impact, effectiveness, and feasibility of including widely used building codes as part of the NFIP's floodplain management criteria. The Committee also accepted an amendment by Rep. Richard Baker (LA) that would delay the implementation of Section 7, which creates the NFIP multiple-peril product, until June 30, 2008, so that the GAO can study the impact of this provision, in accordance with the bipartisan request. An amendment by Rep. Jeb Hensarling (TX) was approved that would require FEMA to report to Congress regarding how it plans to repay, within 10 years, its debt to Treasury. Rep. Tom Price (GA) offered an amendment to eliminate the requirement that an additional, one-page description of the NFIP coverage be distributed to policyholders, instead requiring the more comprehensive supplemental forms already mandated by the Bunning-Bereuter Blumenauer Flood Insurance Reform Act of 2004. Finally, Rep. Patrick McHenry (NC) offered an amendment that would suspend FEMA's ability to offer new multiple-peril policies if the NFIP is forced to borrow from the Treasury to pay multiple-peril claims.

Despite these improvements and the continuing need for flood insurance reform, nearly all Committee Republicans were unable to support this legislation, because of the significant new taxpayer liabilities it creates. The Eastern Seaboard and Gulf Coast contain more than \$19 trillion of insured value. Shifting even a portion of this risk to the troubled NFIP could expose taxpayers to massive losses. H.R. 3121 could also result in significant adverse selection for the multiple-peril program. Because wind is a standard component of homeowners insurance, the risk from a government-backed wind product would likely be concentrated in regions where wind coverage is the most difficult to obtain in the private market. Another large hurricane or storm in the Gulf region that causes both flood and wind losses could bankrupt the NFIP by several times its current insolvency. The Minority believes that, at the very least, this proposal, as well as others, should be thoroughly studied before being authorized by Congress. In addition to a GAO study, Committee Republicans support efforts by the Senate Banking Committee to create an independent natural catastrophe insurance commission to study and report on legislative and regulatory changes to improve the availability and competitiveness of disaster insurance.

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