

42 USC Ch. 50: NATIONAL FLOOD INSURANCE

From Title 42—THE PUBLIC HEALTH AND WELFARE

CHAPTER 50—NATIONAL FLOOD INSURANCE

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§4001. Congressional findings and declaration of purpose

(a) Necessity and reasons for flood insurance program

The Congress finds that (1) from time to time flood disasters have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources; (2) despite the installation of preventive and protective works and the adoption of other public programs designed to reduce losses caused by flood damage, these methods have not been sufficient to protect adequately against growing exposure to future flood losses; (3) as a matter of national policy, a reasonable method

of sharing the risk of flood losses is through a program of flood insurance which can complement and encourage preventive and protective measures; and (4) if such a program is initiated and carried out gradually, it can be expanded as knowledge is gained and experience is appraised, thus eventually making flood insurance coverage available on reasonable terms and conditions to persons who have need for such protection.

(b) Participation of Federal Government in flood insurance program carried out by private insurance industry

The Congress also finds that (1) many factors have made it uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions; but (2) a program of flood insurance with large-scale participation of the Federal Government and carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

(c) Unified national program for flood plain management

The Congress further finds that (1) a program of flood insurance can promote the public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses; and (2) the objectives of a flood insurance program should be integrally related to a unified national program for flood plain management and, to this end, it is the sense of Congress that within two years following the effective date of this chapter the President should transmit to the Congress for its consideration any further proposals necessary for such a unified program, including proposals for the allocation of costs among beneficiaries of flood protection.

(d) Authorization of flood insurance program; flexibility in program

It is therefore the purpose of this chapter to (1) authorize a flood insurance program by means of which flood insurance, over a period of time, can be made available on a nationwide basis through the cooperative efforts of the Federal Government and the private insurance industry, and (2) provide flexibility in the program so that such flood insurance may be based on workable methods of pooling risks, minimizing costs, and distributing burdens equitably among those who will be protected by flood insurance and the general public.

(e) Land use adjustments by State and local governments; development of proposed future construction; assistance of lending and credit institutions; relation of Federal assistance to all flood-related programs; continuing studies

It is the further purpose of this chapter to (1) encourage State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses, (2) guide the development of proposed future construction, where practicable, away from locations which are threatened by flood hazards, (3) encourage lending and credit institutions, as a matter of national policy, to assist in furthering the objectives of the flood insurance program, (4) assure that any Federal assistance provided under the program will be related closely to all flood-related programs and activities of the Federal Government, and (5) authorize continuing studies of flood hazards in order to provide for a constant reappraisal of the flood insurance program and its effect on land use requirements.

(f) Mudslides

The Congress also finds that (1) the damage and loss which results from mudslides is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this chapter to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this chapter for purposes of the flood insurance program, protection against damage and loss resulting from mudslides that are caused by accumulations of water on or under the ground.

(Pub. L. 90–448, title XIII, §1302, Aug. 1, 1968, 82 Stat. 572; Pub. L. 91–152, title IV, §409(a), Dec. 24, 1969, 83 Stat. 397; Pub. L. 93–234, title I, §108(a), Dec. 31, 1973, 87 Stat. 979; Pub. L. 103–325, title V, §552(d), Sept. 23, 1994, 108 Stat. 2269.)

REFERENCES IN TEXT

For effective date of this chapter, referred to in subsec. (c), see section 1377 of Pub. L. 90–448, set out as an Effective Date note below.

This chapter, referred to in subsecs. (d) to (f), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code,

see Short Title note set out below and Tables.

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–325 struck out subsec. (g) which read as follows: “The Congress also finds that (1) the damage and loss which may result from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this chapter to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this chapter for purposes of the flood insurance program, protection against damage and loss resulting from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels.”

1973—Subsec. (g). Pub. L. 93–234 added subsec. (g).

1969—Subsec. (f). Pub. L. 91–152 added subsec. (f).

EFFECTIVE DATE

Pub. L. 90–448, title XIII, §1377, Aug. 1, 1968, 82 Stat. 589, provided that: “This title [enacting this chapter, amending section 2414 of this title, repealing sections 2401 to 2413 and 2415 to 2421 of this title, and enacting provisions set out as notes under this section] shall take effect one hundred and twenty days following the date of its enactment [Aug. 1, 1968], except that the Secretary, on the basis of a finding that conditions exist necessitating the prescribing of an additional period, may prescribe a later effective date which in no event shall be more than one hundred and eighty days following such date of enactment.”

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–89, §1(a), Mar. 21, 2014, 128 Stat. 1020, provided that: “This Act [enacting sections 4005, 4015a, 4033, 4101d, and 4101e of this title, amending sections 4012a, 4013, 4014, 4015, 4017, 4017a, 4081, 4101b, 4102, and 4104 of this title and section 2604 of Title 12, Banks and Banking, enacting provisions set out as notes under sections 4012a, 4014, 4015, and 4102 of this title, and repealing provisions set out as a note under section 4012a of this title] may be cited as the ‘Homeowner Flood Insurance Affordability Act of 2014’.”

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–141, div. F, title II, §100201, July 6, 2012, 126 Stat. 916, provided that: “This subtitle [subtitle A (§§100201–100249) of title II of div. F of Pub. L. 112–141, see Tables for classification] may be cited as the ‘Biggert-Waters Flood Insurance Reform Act of 2012’.”

Pub. L. 112–141, div. F, title II, §100251, July 6, 2012, 126 Stat. 969, provided that: “This subtitle [subtitle B (§§100251–100253) of title II of div. F of Pub. L. 112–141, enacting section 4057 of this title and section 3611 of Title 33, Navigation and Navigable Waters] may be cited as the ‘Consumer Option for an Alternative System to Allocate Losses Act of 2012’ or the ‘COASTAL Act of 2012’.”

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–250, §1, Sept. 30, 2010, 124 Stat. 2630, provided that: “This Act [amending sections 4016 and 4026 of this title] may be cited as the ‘National Flood Insurance Program Reextension Act of 2010’.”

Pub. L. 111–196, §1, July 2, 2010, 124 Stat. 1352, provided that: “This Act [amending sections 4016 and 4026 of this title and enacting provisions set out as a note under section 4016 of this title] may be cited as the ‘National Flood Insurance Program Extension Act of 2010’.”

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–208, §1, Mar. 23, 2006, 120 Stat. 317, provided that: “This Act [amending section 4016 of this title] may be cited as the ‘National Flood Insurance Program Enhanced Borrowing Authority Act of 2006’.”

SHORT TITLE OF 2005 AMENDMENTS

Pub. L. 109–106, §1, Nov. 21, 2005, 119 Stat. 2288, provided that: “This Act [amending section 4016 of this title] may be cited as the ‘National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005’.”

Pub. L. 109–65, §1, Sept. 20, 2005, 119 Stat. 1998, provided that: “This Act [amending section 4016 of this title] may be cited as the ‘National Flood Insurance Program Enhanced Borrowing Authority Act of 2005’.”

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–264, §1(a), June 30, 2004, 118 Stat. 712, provided that: “This Act [enacting sections 4030 and 4102a of this title, amending sections 4011, 4015 to 4017, 4022, 4026, 4056, 4104c, 4104d, 4121, and 4127 of this title, and enacting provisions set out as notes under this section and sections 4011 and 4101 of this title] may be cited as the ‘Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004’.”

SHORT TITLE OF 2003 AMENDMENTS

Pub. L. 108–171, §1, Dec. 6, 2003, 117 Stat. 2064, provided that: “This Act [amending sections 4016, 4026, 4056, and 4127 of this title and enacting provisions set out as a note under section 4016 of this title] may be cited as the ‘National Flood Insurance Program Reauthorization Act of 2004’.”

Pub. L. 108–3, §1, Jan. 13, 2003, 117 Stat. 7, provided that: “This Act [amending sections 4016, 4026, 4056, and 4127 of this title and enacting provisions set out as a note under section 4016 of this title] may be cited as the ‘National Flood Insurance Program Reauthorization Act of 2003’.”

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–325, title V, §501, Sept. 23, 1994, 108 Stat. 2255, provided that: “This title [enacting sections 4104b to 4104d and 5154a of this title, amending this section, sections 4003, 4011, 4012a, 4013, 4015, 4017, 4022, 4026, 4027, 4029, 4056, 4081, 4101, 4104a, 4106, 4121, and 5154 of this title, and sections 1784, 1820, 3305, and 4521 of Title 12, Banks and Banking, repealing section 4103 of this title, enacting provisions set out as notes under this section and sections 4011, 4013, 4014, 4101 to 4103, and 4104c of this title, and repealing provisions set out as a note under section 4015 of this title] may be cited as the ‘National Flood Insurance Reform Act of 1994’.”

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–234, §1, Dec. 31, 1973, 87 Stat. 975, provided: “That this Act [enacting sections 4002, 4003, 4012a, 4104, 4105 to 4107, and 4128 of this title, amending this section, sections 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title, and sections 24 and 1709–1 of Title 12, Banks and Banking, and repealing section 4021 of this title] may be cited as the ‘Flood Disaster Protection Act of 1973’.”

SHORT TITLE

Pub. L. 90–448, title XIII, §1301, Aug. 1, 1968, 82 Stat. 572, provided that: “This title [enacting this chapter, amending section 2414 of this title, repealing sections 2401 to 2413 and 2415 to 2421 of this title, and enacting provisions set out as a note under this section] may be cited as the ‘National Flood Insurance Act of 1968’.”

REGULATIONS

Pub. L. 103–325, title V, §583, Sept. 23, 1994, 108 Stat. 2287, as amended by Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that: “The Administrator of the Federal Emergency Management Agency and any appropriate Federal agency may each issue any regulations necessary to carry out the applicable provisions of this title [see Short Title of 1994 Amendment note above] and the applicable amendments made by this title.”

[For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.]

[For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency

relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

EVALUATION OF EROSION HAZARDS

Pub. L. 103–325, title V, §577(a)–(g), Sept. 23, 1994, 108 Stat. 2281–2283, required the Director of the Federal Emergency Management Agency to submit a report no later than two years after Sept. 23, 1994, evaluating erosion hazards and estimating the impact of erosion on flood insurance claims.

RELATION OF TITLE V OF PUB. L. 103–325 TO STATE AND LOCAL LAWS

Pub. L. 103–325, title V, §584, Sept. 23, 1994, 108 Stat. 2287, provided that: “This title [see Short Title of 1994 Amendment note above] and the amendments made by this title may not be construed to preempt, annul, alter, amend, or exempt any person from compliance with any law, ordinance, or regulation of any State or local government with respect to land use, management, or control.”

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

§4002. Additional Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) annual losses throughout the Nation from floods and mudslides are increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood and mudslide hazards;

(2) the availability of Federal loans, grants, guaranties, insurance, and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of public and of private industrial, commercial, and residential facilities;

(3) property acquired or constructed with grants or other Federal assistance may be exposed to risk of loss through floods, thus frustrating the purpose for which such assistance was extended;

(4) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides;

(5) the Nation cannot afford the tragic losses of life caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits; and

(6) it is in the public interest for persons already living in flood-prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified, for their losses in the event of future flood disasters.

(b) The purpose of this Act, therefore, is to—

(1) substantially increase the limits of coverage authorized under the national flood insurance program;

(2) provide for the expeditious identification of, and the dissemination of information concerning, flood-prone areas;

(3) require States or local communities, as a condition of future Federal financial assistance, to participate in the flood insurance program and to adopt adequate flood plan ordinances with effective enforcement provisions consistent with Federal standards to reduce or avoid future flood losses; and

(4) require the purchase of flood insurance by property owners who are being assisted by Federal programs or by federally supervised, regulated, or insured agencies or institutions in the acquisition or improvement of land or facilities located or to be located in identified areas having special flood hazards.

(Pub. L. 93–234, §2, Dec. 31, 1973, 87 Stat. 975.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, as amended, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the

Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

§4003. Definitions applicable to Flood Disaster Protection Act of 1973

(a) As used in this Act, unless the context otherwise requires, the term—

(1) “community” means a State or a political subdivision thereof which has zoning and building code jurisdiction over a particular area having special flood hazards;

(2) “Federal agency” means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(3) “financial assistance” means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States;

(4) “financial assistance for acquisition or construction purposes” means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance pursuant to the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] (other than assistance under such Act in connection with a flood);

(5) “Federal entity for lending regulation” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

(6) “Administrator” means the Administrator of the Federal Emergency Management Agency;

(7) “Federal agency lender” means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

(8) the term “improved real estate” means real estate upon which a building is located;

(9) “lender” means a regulated lending institution or Federal agency lender;

(10) “regulated lending institution” means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation; and

(11) “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.

(b) The Administrator is authorized to define or redefine, by rules and regulations, any scientific or technical term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act.

(Pub. L. 93–234, §3, Dec. 31, 1973, 87 Stat. 976; Pub. L. 95–128, title VII, §703(b), Oct. 12, 1977, 91 Stat. 1145; Pub. L. 98–181, title I [title IV, §451(e)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 100–707, title I, §109(t), Nov. 23, 1988, 102 Stat. 4710; Pub. L. 103–325, title V, §511(a), Sept. 23, 1994, 108 Stat. 2255; Pub. L. 111–203, title III, §368, July 21, 2010, 124 Stat. 1557; Pub. L. 112–141, div. F, title II, §100238(a)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(4), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Subsec. (a)(6). Pub. L. 112–141 substituted “ ‘Administrator’ ” for “ ‘Director’ ” and “Administrator of” for “Director of”.

Subsec. (b). Pub. L. 112–141 substituted “Administrator” for “Director”.

2010—Subsec. (a)(5). Pub. L. 111–203 struck out “, the Office of Thrift Supervision” after “the Comptroller of the Currency”.

1994—Subsec. (a)(5). Pub. L. 103–325, §511(a)(1), added par. (5) and struck out former par. (5) which read as follows: “ ‘Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions’ means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration; and”.

Subsec. (a)(7) to (11). Pub. L. 103–325, §511(a)(2), (3), added pars. (7) to (11).

1988—Subsec. (a)(4). Pub. L. 100–707 substituted “Disaster Relief and Emergency Assistance Act” for “Disaster Relief Act of 1974”.

1983—Subsec. (a)(6). Pub. L. 98–181, §451(e)(2), substituted definition of “Director” meaning the Director of the Federal Emergency Management Agency for definition of “Secretary” meaning the Secretary of Housing and Urban Development.

Subsec. (b). Pub. L. 98–181, §451(e)(1), substituted “Director” for “Secretary”.

1977—Subsec. (a)(4). Pub. L. 95–128 substituted “assistance pursuant to the Disaster Relief Act of 1974 (other than assistance under such Act in connection with a flood)” for “assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970 or any subsequent Act of Congress which supersedes or modifies the Disaster Relief Act of 1970”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4004. Definitions applicable to Biggert-Waters Flood Insurance Reform Act of 2012

(a) In general

In this subtitle, the following definitions shall apply:

(1) 100-year floodplain

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

(2) 500-year floodplain

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

(3) Administrator

The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(4) National Flood Insurance Program

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

(5) Write Your Own

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

(b) Common terminology

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

(Pub. L. 112–141, div. F, title II, §100202, July 6, 2012, 126 Stat. 916.)

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (a) and (b), is subtitle A (§§100201–100249) of title II of div. F of Pub. L. 112–141, July 6, 2012, 126 Stat. 916, known as the Biggert-Waters Flood Insurance Reform Act of 2012. For complete classification of this subtitle to the Code, see Short Title of 2012 Amendment note set out under section 4001 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in subsec. (a)(4), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of National Flood Insurance Act of 1968 which comprises this chapter.

§4005. Definitions applicable to Homeowner Flood Insurance Affordability Act of 2014

For purposes of this title,¹ the following definitions shall apply:

(1) Administrator

The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) National flood insurance program

The term “National Flood Insurance Program” means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(Pub. L. 113–89, §2, Mar. 21, 2014, 128 Stat. 1020.)

REFERENCES IN TEXT

This title, referred to in text, probably should read “this Act”, meaning Pub. L. 113–89, Mar. 21, 2014, 128 Stat. 1020, known as the Homeowner Flood Insurance Affordability Act of 2014, which does not contain titles. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 4001 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in par. (2), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Homeowner Flood Insurance Affordability Act of 2014, and not

as part of the National Flood Insurance Act of 1968 which comprises this chapter.

¹ *See References in Text note below.*

SUBCHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

§4011. Authorization to establish and carry out program

(a) Authorization and establishment

To carry out the purposes of this chapter, the Administrator of the Federal Emergency Management Agency is authorized to establish and carry out a national flood insurance program which will enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real property or personal property related thereto arising from any flood occurring in the United States.

(b) Additional coverage for compliance with land use and control measures

The national flood insurance program established pursuant to subsection (a) of this section shall enable the purchase of insurance to cover the cost of implementing measures that are consistent with land use and control measures established by the community under section 4102 of this title for—

- (1) properties that are repetitive loss structures;
- (2) properties that are substantially damaged structures;
- (3) properties that have sustained flood damage on multiple occasions, if the Administrator determines that it is cost-effective and in the best interests of the National Flood Insurance Fund to require the implementation of such measures; and
- (4) properties for which an offer of mitigation assistance is made under—
 - (A) section 4104c of this title (Flood Mitigation Assistance Program);
 - (B) the Hazard Mitigation Grant Program authorized under section 5170c of this title;
 - (C) the Predisaster Hazard Mitigation Program under section 5133 of this title; and
 - (D) any programs authorized or for which funds are appropriated to address any unmet needs or for which supplemental funds are made available.

The Administrator shall impose a surcharge on each insured of not more than \$75 per policy to provide cost of compliance coverage in accordance with the provisions of this subsection.

(c) Participation and risk sharing by insurers

In carrying out the flood insurance program the Administrator shall, to the maximum extent practicable, encourage and arrange for—

- (1) appropriate financial participation and risk sharing in the program by insurance companies and other insurers, and
- (2) other appropriate participation, on other than a risk-sharing basis, by insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations,

in accordance with the provisions of subchapter II of this chapter.

(Pub. L. 90–448, title XIII, §1304, Aug. 1, 1968, 82 Stat. 574; Pub. L. 98–181, title I [title IV, §451(d)(1), (2)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §555(a), Sept. 23, 1994, 108 Stat. 2274; Pub. L. 108–264, title I, §105(a), June 30, 2004, 118 Stat. 723; Pub. L. 112–141, div. F, title II, §§100225(f), 100238(b)(1), July 6, 2012, 126 Stat. 942, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

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

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” in concluding

provisions.

Subsec. (b)(3). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

Subsec. (b)(4)(B) to (E). Pub. L. 112–141, §100225(f), redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out former subpar. (B) which read as follows: “section 1368 (Repetitive Loss Priority Program and Individual Priority Property Program);”.

Subsec. (c). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” in introductory provisions.

2004—Subsec. (b). Pub. L. 108–264, §105(a)(1)(B), which directed insertion of “by the community” after “established” in introductory provisions, was executed by making the insertion after “established” the second time appearing to reflect the probable intent of Congress.

Pub. L. 108–264, §105(a)(1)(A), substituted “implementing measures that are consistent” for “compliance” in introductory provisions.

Subsec. (b)(2). Pub. L. 108–264, §105(a)(2), substituted “are substantially damaged structures;” for “have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and”.

Subsec. (b)(3). Pub. L. 108–264, §105(a)(3), which directed the substitution of “the implementation of such measures; and” for “compliance with land use and control measures.”, was executed by making the substitution for “compliance with the land use and control measures.”, to reflect the probable intent of Congress.

Subsec. (b)(4). Pub. L. 108–264, §105(a)(4), added par. (4).

1994—Subsecs. (b), (c). Pub. L. 103–325 added subsec. (b) and redesignated former subsec. (b) as (c).

1983—Subsec. (a). Pub. L. 98–181, §451(d)(2), substituted “Director of the Federal Emergency Management Agency” for “Secretary of Housing and Urban Development”.

Subsec. (b). Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary”.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–325, title V, §555(b), Sept. 23, 1994, 108 Stat. 2274, provided that: “The provisions of subsection (a) [amending this section] shall apply only to properties that sustain flood-related damage after the date of enactment of this Act [Sept. 23, 1994].”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

FLOOD IN PROGRESS DETERMINATIONS

Pub. L. 112–141, div. F, title II, §100227, July 6, 2012, 126 Stat. 943, provided that:

“(a) REPORT.—

“(1) REVIEW.—The Administrator shall review—

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

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

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

“(D) the effects and implications that weather conditions, including rainfall, snowfall,

projected snowmelt, existing water levels, and other conditions, have on the determination that a flood event has commenced or is in progress.

“(2) REPORT.—Not later than 6 months after the date of enactment of this Act [July 6, 2012], the Administrator shall submit a report to Congress that describes—

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

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

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

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

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

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

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

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

[For definitions of terms used in section 100227 of Pub. L. 112–141, set out above, see section 4004 of this title.]

CONGRESSIONAL FINDINGS

Pub. L. 108–264, §2, June 30, 2004, 118 Stat. 712, provided that: “The Congress finds that—

“(1) the national flood insurance program—

“(A) identifies the flood risk;

“(B) provides flood risk information to the public;

“(C) encourages State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses; and

“(D) makes flood insurance available on a nationwide basis that would otherwise not be available, to accelerate recovery from floods, mitigate future losses, save lives, and reduce the personal and national costs of flood disasters;

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

“(3) approximately 48,000 properties currently insured under the program have experienced, within a 10-year period, 2 or more flood losses where each such loss exceeds the amount \$1,000;

“(4) approximately 10,000 of these repetitive-loss properties have experienced either 2 or 3 losses that cumulatively exceed building value or 4 or more losses, each exceeding \$1,000;

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

“(6) repetitive-loss properties comprise approximately 1 percent of currently insured properties but are expected to account for 25 to 30 percent of claims losses;

“(7) the vast majority of repetitive-loss properties were built before local community

implementation of floodplain management standards under the program and thus are eligible for subsidized flood insurance;

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

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

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

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

“(12) focusing the mitigation and buy-out of repetitive loss properties upon communities and property owners that choose to voluntarily participate in a mitigation and buy-out program will maximize the benefits of such a program, while minimizing any adverse impact on communities and property owners.”

MISCELLANEOUS FLOOD INSURANCE PROVISIONS

Pub. L. 108–264, title II, June 30, 2004, 118 Stat. 725, as amended by Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that:

“SEC. 201. DEFINITIONS.

“In this title, the following definitions shall apply:

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

“(2) FLOOD INSURANCE POLICY.—The term ‘flood insurance policy’ means a flood insurance policy issued under the National Flood Insurance Act of 1968 (42 U.S.C. [4001] et seq.).

“(3) PROGRAM.—The term ‘Program’ means the National Flood Insurance Program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

“SEC. 202. SUPPLEMENTAL FORMS.

“(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [June 30, 2004], the Director shall develop supplemental forms to be issued in conjunction with the issuance of a flood insurance policy that set forth, in simple terms—

“(1) the exact coverages being purchased by a policyholder;

“(2) any exclusions from coverage that apply to the coverages purchased;

“(3) an explanation, including illustrations, of how lost items and damages will be valued under the policy at the time of loss;

“(4) the number and dollar value of claims filed under a flood insurance policy over the life of the property, and the effect, under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), of the filing of any further claims under a flood insurance policy with respect to that property; and

“(5) any other information that the Director determines will be helpful to policyholders in understanding flood insurance coverage.

“(b) DISTRIBUTION.—The forms developed under subsection (a) shall be given to—

“(1) all holders of a flood insurance policy at the time of purchase and renewal; and

“(2) insurance companies and agents that are authorized to sell flood insurance policies.

“SEC. 203. ACKNOWLEDGEMENT FORM.

“(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [June 30, 2004], the Director shall develop an acknowledgement form to be signed by the purchaser of a flood insurance policy that contains—

“(1) an acknowledgement that the purchaser has received a copy of the standard flood

insurance policy, and any forms developed under section 202; and

“(2) an acknowledgement that the purchaser has been told that the contents of a property or dwelling are not covered under the terms of the standard flood insurance policy, and that the policyholder has the option to purchase additional coverage for such contents.

“(b) DISTRIBUTION.—Copies of an acknowledgement form executed under subsection (a) shall be made available to the purchaser and the Director.

“SEC. 204. FLOOD INSURANCE CLAIMS HANDBOOK.

“(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act [June 30, 2004], the Director shall develop a flood insurance claims handbook that contains—

“(1) a description of the procedures to be followed to file a claim under the Program, including how to pursue a claim to completion;

“(2) how to file supplementary claims, proof of loss, and any other information relating to the filing of claims under the Program; and

“(3) detailed information regarding the appeals process established under section 205.

“(b) DISTRIBUTION.—The handbook developed under subsection (a) shall be made available to—

“(1) each insurance company and agent authorized to sell flood insurance policies; and

“(2) each purchaser, at the time of purchase and renewal, of a flood insurance policy, and at the time of any flood loss sustained by such purchaser.

“SEC. 205. APPEAL OF DECISIONS RELATING TO FLOOD INSURANCE COVERAGE.

“Not later than 6 months after the date of enactment of this Act [June 30, 2004], the Director shall, by regulation, 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, of—

“(1) any insurance agent or adjuster, or insurance company; or

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

“SEC. 206. STUDY AND REPORT ON USE OF COST COMPLIANCE COVERAGE.

“Not later than 1 year after the date of enactment of this Act [June 30, 2004], the Administrator of the Federal Emergency Management Agency shall submit to Congress a report that sets forth—

“(1) the use of cost of compliance coverage under section 1304(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4011(b)) in connection with flood insurance policies;

“(2) any barriers to policyholders using the funds provided by cost of compliance coverage under that section 1304(b) under a flood insurance policy, and recommendations to address those barriers; and

“(3) the steps that the Federal Emergency Management Agency has taken to ensure that funds paid for cost of compliance coverage under that section 1304(b) are being used to lessen the burdens on all homeowners and the Program.

“SEC. 207. MINIMUM TRAINING AND EDUCATION REQUIREMENTS.

“The Administrator of the Federal Emergency Management Agency shall, in cooperation with the insurance industry, State insurance regulators, and other interested parties—

“(1) establish minimum training and education requirements for all insurance agents who sell flood insurance policies; and

“(2) not later than 6 months after the date of enactment of this Act [June 30, 2004], publish these requirements in the Federal Register, and inform insurance companies and agents of the requirements.

“SEC. 208. GAO STUDY AND REPORT.

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

“(1) the adequacy of the scope of coverage provided under flood insurance policies in meeting the intended goal of Congress that flood victims be restored to their pre-flood conditions, and any recommendations to ensure that goal is being met;

“(2) the adequacy of payments to flood victims under flood insurance policies; and

“(3) the practices of the Federal Emergency Management Agency and insurance adjusters in estimating losses incurred during a flood, and how such practices affect the adequacy of payments

to flood victims.

“(b) REPORT.—Not later than 1 year after the date of enactment of this Act [June 30, 2004], the Comptroller General shall submit to Congress a report regarding the results of the study under subsection (a).

“SEC. 209. PROSPECTIVE PAYMENT OF FLOOD INSURANCE PREMIUMS.

[Amended section 4015 of this title.]

“SEC. 210. REPORT ON CHANGES TO FEE SCHEDULE OR FEE PAYMENT ARRANGEMENTS.

“Not later than 3 months after the date of enactment of this Act [June 30, 2004], the Director shall submit a report on any changes or modifications made to the fee schedule or fee payment arrangements between the Federal Emergency Management Agency and insurance adjusters who provide services with respect to flood insurance policies to—

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

FLOOD INSURANCE INTERAGENCY TASK FORCE

Section 561 of Pub. L. 103–325 provided that:

“(a) ESTABLISHMENT.—There is hereby established an interagency task force to be known as the Flood Insurance Task Force (in this section referred to as the ‘Task Force’).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Task Force shall be composed of 10 members, who shall be the designees of—

- “(A) the Federal Insurance Administrator;
- “(B) the Federal Housing Commissioner;
- “(C) the Secretary of Veterans Affairs;
- “(D) the Administrator of the Farmers Home Administration;
- “(E) the Administrator of the Small Business Administration;
- “(F) the Chairman of the Board of Directors of the Farm Credit Administration;
- “(G) a designee of the Financial Institutions Examination Council;
- “(H) the Director of the Office of Federal Housing Enterprise Oversight;
- “(I) the chairman of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

“(J) the chairman of the Board of Directors of the Federal National Mortgage Association.

“(2) QUALIFICATIONS.—Members of the Task Force shall be designated for membership on the Task Force by reason of demonstrated knowledge and competence regarding the national flood insurance program.

“(c) DUTIES.—The Task Force shall carry out the following duties:

“(1) RECOMMENDATIONS OF STANDARDIZED ENFORCEMENT PROCEDURES.—Make recommendations to the head of each Federal agency and enterprise referred to under subsection (b)(1) regarding establishment or adoption of standardized enforcement procedures among such agencies and corporations responsible for enforcing compliance with the requirements under the national flood insurance program to ensure fullest possible compliance with such requirements.

“(2) STUDY OF COMPLIANCE ASSISTANCE.—Conduct a study of the extent to which Federal agencies and the secondary mortgage market can provide assistance in ensuring compliance with the requirements under the national flood insurance program and submit to the Congress a report describing the study and any conclusions.

“(3) STUDY OF COMPLIANCE MODEL.—Conduct a study of the extent to which existing programs of Federal agencies and corporations for compliance with the requirements under the national flood insurance program can serve as a model for other Federal agencies responsible for enforcing compliance, and submit to the Congress a report describing the study and any conclusions.

“(4) RECOMMENDATIONS FOR ENFORCEMENT AND COMPLIANCE PROCEDURES.—Develop recommendations regarding enforcement and compliance procedures, based on the studies and findings of the Task Force, and publish such recommendations.

“(5) STUDY OF DETERMINATION FEES.—Conduct a study of—

- “(A) the reasonableness of fees charged pursuant to 102(h) of the Flood Disaster

Protection Act of 1973 [42 U.S.C. 4012a(h)] for costs of determining whether the property securing a loan is located in an area having special flood hazards; and

“(B) whether the fees charged pursuant to such section by lenders and servicers are greater than the amounts paid by such lenders and servicers to persons actually conducting such determinations and the extent to which the fees exceed such amounts.

“(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

“(e) CHAIRPERSON.—The members of the Task Force shall elect one member as chairperson of the Task Force.

“(f) MEETINGS AND ACTION.—The Task Force shall meet at the call of the chairman or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

“(g) OFFICERS.—The chairperson of the Task Force may appoint any officers to carry out the duties of the Task Force under subsection (c).

“(h) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Task Force, the head of any of the Federal agencies and entities referred to under subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

“(i) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

“(j) TERMINATION.—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b)(1).”

§4012. Scope of program and priorities

(a) Priority for insurance for certain residential and church properties and business concerns

In carrying out the flood insurance program the Administrator shall afford a priority to making flood insurance available to cover residential properties which are designed for the occupancy of from one to four families, church properties, and business properties which are owned or leased and operated by small business concerns.

(b) Availability of insurance for other properties

If on the basis of—

- (1) studies and investigations undertaken and carried out and information received or exchanged under section 4014 of this title, and
- (2) such other information as may be necessary,

the Administrator determines that it would be feasible to extend the flood insurance program to cover other properties, he may take such action under this chapter as from time to time may be necessary in order to make flood insurance available to cover, on such basis as may be feasible, any types and classes of—

- (A) other residential properties not described in subsection (a) or (d),
- (B) other business properties,
- (C) agricultural properties,
- (D) properties occupied by private nonprofit organizations, and
- (E) properties owned by State and local governments and agencies thereof,

and any such extensions of the program to any types and classes of these properties shall from time to time be prescribed in regulations.

(c) Availability of insurance in States or areas evidencing positive interest in securing insurance and assuring adoption of adequate land use and control measures

The Administrator shall make flood insurance available in only those States or areas (or subdivisions thereof) which he has determined have—

- (1) evidenced a positive interest in securing flood insurance coverage under the flood insurance program, and
- (2) given satisfactory assurance that by December 31, 1971, adequate land use and control measures will have been adopted for the State or area (or subdivision) which are consistent with the comprehensive criteria for land management and use developed under section 4102 of this title, and that the application and enforcement

of such measures will commence as soon as technical information on floodways and on controlling flood elevations is available.

(d) Availability of insurance for multifamily properties

(1) In general

The Administrator shall make flood insurance available to cover residential properties of 5 or more residences. Notwithstanding any other provision of law, the maximum coverage amount that the Administrator may make available under this subsection to such residential properties shall be equal to the coverage amount made available to commercial properties.

(2) Rule of construction

Nothing in this subsection shall be construed to limit the ability of individuals residing in residential properties of 5 or more residences to obtain insurance for the contents and personal articles located in such residences.

(Pub. L. 90–448, title XIII, §1305, Aug. 1, 1968, 82 Stat. 574; Pub. L. 91–152, title IV, §410(a), Dec. 24, 1969, 83 Stat. 397; Pub. L. 92–213, §2(c)(1), Dec. 22, 1971, 85 Stat. 775; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100204, 100238(b)(1), July 6, 2012, 126 Stat. 916, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

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

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” in concluding provisions following par. (2).

Subsec. (b)(A). Pub. L. 112–141, §100204(1), which directed amendment of subsec. (b)(2)(A) by inserting “not described in subsection (a) or (d)” after “properties”, was executed by making the insertion in subpar. (A) following first concluding provisions to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” in introductory provisions.

Subsec. (d). Pub. L. 112–141, §100204(2), added subsec. (d).

1983—Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

1971—Subsec. (a). Pub. L. 92–213 inserted reference to church properties.

1969—Subsec. (c)(2). Pub. L. 91–152 substituted “December 31, 1971, adequate” for “June 30, 1970, permanent”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4012a. Flood insurance purchase and compliance requirements and escrow accounts

(a) Amount and term of coverage

After the expiration of sixty days following December 31, 1973, no Federal officer or agency shall approve any

financial assistance for acquisition or construction purposes for use in any area that has been identified by the Administrator as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], unless the building or mobile home and any personal property to which such financial assistance relates is covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan. The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.

(b) Requirement for mortgage loans

(1) Regulated lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974 [12 U.S.C. 3301 et seq.]) shall by regulation direct regulated lending institutions—

(A) not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available under the Act with respect to the particular type of property, whichever is less; and

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

(2) Federal agency lenders

A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1)(A). Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence. Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1)(A).

(3) Government-sponsored enterprises for housing

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

(A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Administrator as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, and

(B) purchased by such entity,

the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1)(A). The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under paragraph (1)(A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such paragraph and any requirements established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, respectively, relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation will accept private flood insurance.

(4) Applicability

(A) Existing coverage

Except as provided in subparagraph (B), paragraph (1) shall apply on September 23, 1994.

(B) New coverage

Paragraphs (2) and (3) shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on September 23, 1994. Paragraph (1) shall apply with respect to any loan made, increased, extended, or renewed by any lender supervised by the Farm Credit Administration only after the expiration of the period under this subparagraph.

(C) Continued effect of regulations

Notwithstanding any other provision of this subsection, the regulations to carry out paragraph (1), as in effect immediately before September 23, 1994, shall continue to apply until the regulations issued to carry out paragraph (1) as amended by section 522(a) of Public Law 103–325 take effect.

(5) Rule of construction

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

(6) Notice

(A) In general

Each lender shall disclose to a borrower that is subject to this subsection that—

- (i) flood insurance is available from private insurance companies that issue standard flood insurance policies on behalf of the national flood insurance program or directly from the national flood insurance program;
- (ii) flood insurance that provides the same level of coverage as a standard flood insurance policy under the national flood insurance program may be available from a private insurance company that issues policies on behalf of the company; and
- (iii) the borrower is encouraged to compare the flood insurance coverage, deductibles, exclusions, conditions and premiums associated with flood insurance policies issued on behalf of the national flood insurance program and policies issued on behalf of private insurance companies and to direct inquiries regarding the availability, cost, and comparisons of flood insurance coverage to an insurance agent.

(B) Rule of construction

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

(7) Private flood insurance defined

In this subsection, the term “private flood insurance” means an insurance policy that—

- (A) is issued by an insurance company that is—
 - (i) licensed, admitted, or otherwise approved to engage in the business of insurance in the State or jurisdiction in which the insured building is located, by the insurance regulator of that State or jurisdiction; or
 - (ii) in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is ¹ recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction where the property to be insured is located;

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

(C) includes—

- (i) a requirement for the insurer to give 45 days’ written notice of cancellation or non-renewal of flood insurance coverage to—
 - (I) the insured; and
 - (II) the regulated lending institution or Federal agency lender;
- (ii) information about the availability of flood insurance coverage under the national flood insurance program;
- (iii) a mortgage interest clause similar to the clause contained in a standard flood insurance policy under the national flood insurance program; and

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

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

(c) Exceptions to purchase requirements

(1) State-owned property

Notwithstanding the other provisions of this section, flood insurance shall not be required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the Administrator. The Administrator shall publish and periodically revise the list of States to which this subsection applies.

(2) Small loans

Notwithstanding any other provision of this section, subsections (a) and (b) of this section shall not apply to any loan having—

(A) an original outstanding principal balance of \$5,000 or less; and

(B) a repayment term of 1 year or less.

(3) Detached structures

Notwithstanding any other provision of this section, flood insurance shall not be required, in the case of any residential property, for any structure that is a part of such property but is detached from the primary residential structure of such property and does not serve as a residence.

(d) Escrow of flood insurance payments

(1) Regulated lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.] for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the Administrator or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed.

(2) Federal agency lenders

Each Federal agency lender shall by regulation require and provide for escrow and payment of any flood insurance premiums and fees relating to residential improved real estate and mobile homes securing loans made by the Federal agency lender under the circumstances and in the manner provided under paragraph (1). Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

(3) Applicability of RESPA

Escrow accounts established pursuant to this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2609].

(4) “Residential improved real estate” defined

For purposes of this subsection, the term “residential improved real estate” means improved real estate for which the improvement is a residential building.

(5) Applicability

This subsection shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on September 23, 1994.

(e) Placement of flood insurance by lender

(1) Notification to borrower of lack of coverage

If, at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the Administrator (at the time of the origination of the loan or at any time during the term of the loan) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is

not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to paragraph (1), (2), or (3) of subsection (b) of this section, the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the borrower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1) of this section, for the term of the loan.

(2) Purchase of coverage on behalf of borrower

If the borrower fails to purchase such flood insurance within 45 days after notification under paragraph (1), the lender or servicer for the loan shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the insurance, including premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount.

(3) Termination of force-placed insurance

Within 30 days of receipt by the lender or servicer of a confirmation of a borrower's existing flood insurance coverage, the lender or servicer shall—

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

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

(4) Sufficiency of demonstration

For purposes of confirming a borrower's existing flood insurance coverage, a lender or servicer for a loan shall accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or agent.

(5) Review of determination regarding required purchase

(A) In general

The borrower and lender for a loan secured by improved real estate or a mobile home may jointly request the Administrator to review a determination of whether the building or mobile home is located in an area having special flood hazards. Such request shall be supported by technical information relating to the improved real estate or mobile home. Not later than 45 days after the Administrator receives the request, the Administrator shall review the determination and provide to the borrower and the lender with a letter stating whether or not the building or mobile home is in an area having special flood hazards. The determination of the Administrator shall be final.

(B) Effect of determination

Any person to whom a borrower provides a letter issued by the Administrator pursuant to subparagraph (A), stating that the building or mobile home securing the loan of the borrower is not in an area having special flood hazards, shall have no obligation under this title ² to require the purchase of flood insurance for such building or mobile home during the period determined by the Administrator, which shall be specified in the letter and shall begin on the date on which such letter is provided.

(C) Effect of failure to respond

If a request under subparagraph (A) is made in connection with the origination of a loan and the Administrator fails to provide a letter under subparagraph (A) before the later of (i) the expiration of the 45-day period under such subparagraph, or (ii) the closing of the loan, no person shall have an obligation under this title ² to require the purchase of flood insurance for the building or mobile home securing the loan until such letter is provided.

(6) Applicability

This subsection shall apply to all loans outstanding on or after September 23, 1994.

(f) Civil monetary penalties for failure to require flood insurance or notify

(1) Civil monetary penalties against regulated lenders

Any regulated lending institution that is found to have a pattern or practice of committing violations under paragraph (2) shall be assessed a civil penalty by the appropriate Federal entity for lending regulation in the amount provided under paragraph (5).

(2) Lender violations

The violations referred to in paragraph (1) shall include—

(A) making, increasing, extending, or renewing loans in violation of—

(i) the regulations issued pursuant to subsection (b) of this section;

(ii) the escrow requirements under subsection (d) of this section; or

(iii) the notice requirements under section 1364 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104a]; or

(B) failure to provide notice or purchase flood insurance coverage in violation of subsection (e) of this section.

(3) Civil monetary penalties against GSE's

(A) In general

If the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation is found by the Director of the Federal Housing Finance Agency to have a pattern or practice of purchasing loans in violation of the procedures established pursuant to subsection (b)(3) of this section, the Director of such Office³ shall assess a civil penalty against such enterprise in the amount provided under paragraph (5) of this subsection.

(B) “Enterprise” defined

For purposes of this subsection, the term “enterprise” means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) Notice and hearing

A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

(5) Amount

A civil monetary penalty under this subsection may not exceed \$2,000 for each violation under paragraph (2) or paragraph (3).

(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) of this section.

(7) Effect of transfer on liability

Any sale or other transfer of a loan by a regulated lending institution that has committed a violation under paragraph (1), that occurs subsequent to the violation, shall not affect the liability of the transferring lender with respect to any penalty under this subsection. A lender shall not be liable for any violations relating to a loan committed by another regulated lending institution that previously held the loan.

(8) Deposit of penalties

Any penalties collected under this subsection shall be paid into the National Flood Mitigation Fund under section 1367 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104d].

(9) Additional penalties

Any penalty under this subsection shall be in addition to any civil remedy or criminal penalty otherwise available.

(10) Statute of limitations

No penalty may be imposed under this subsection after the expiration of the 4-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under this subsection.

(g) Other actions to remedy pattern of noncompliance

(1) Authority of Federal entities for lending regulation

A Federal entity for lending regulation may require a regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution complies with the requirements of the national flood insurance program if the Federal agency for lending regulation makes a determination under paragraph (2) regarding the regulated lending institution.

(2) Determination of violations

A determination under this paragraph shall be a finding that—

(A) the regulated lending institution has engaged in a pattern and practice of noncompliance in violation of the regulations issued pursuant to subsection (b), (d), or (e) of this section or the notice requirements under section 1364 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104a]; and

(B) the regulated lending institution has not demonstrated measurable improvement in compliance despite the assessment of civil monetary penalties under subsection (f) of this section.

(h) Fee for determining location

Notwithstanding any other Federal or State law, any person who makes a loan secured by improved real estate or a mobile home or any servicer for such a loan may charge a reasonable fee for the costs of determining whether the building or mobile home securing the loan is located in an area having special flood hazards, but only in accordance with the following requirements:

(1) Borrower fee

The borrower under such a loan may be charged the fee, but only if the determination—

(A) is made pursuant to the making, increasing, extending, or renewing of the loan that is initiated by the borrower;

(B) is made pursuant to a revision or updating under section 1360(f)⁴ [42 U.S.C. 4101(f)] of the floodplain areas and flood-risk zones or publication of a notice or compendia under subsection (h) or (i) of section 1360⁴ [42 U.S.C. 4101(h), (i)] that affects the area in which the improved real estate or mobile home securing the loan is located or that, in the determination of the Administrator, may reasonably be considered to require a determination under this subsection; or

(C) results in the purchase of flood insurance coverage pursuant to the requirement under subsection (e)(2) of this section.

(2) Purchaser or transferee fee

The purchaser or transferee of such a loan may be charged the fee in the case of sale or transfer of the loan.

(Pub. L. 93–234, title I, §102, Dec. 31, 1973, 87 Stat. 978; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §§522–526, 531, 582(c), Sept. 23, 1994, 108 Stat. 2257–2262, 2267, 2287; Pub. L. 110–289, div. A, title I, §1161(e), July 30, 2008, 122 Stat. 2780; Pub. L. 112–141, div. F, title II, §§100208, 100209(a), 100238(a)(1), 100239(a), 100244(a), July 6, 2012, 126 Stat. 919, 920, 958, 966; Pub. L. 112–281, §1, Jan. 14, 2013, 126 Stat. 2485; Pub. L. 113–89, §§13(a), 25(a), Mar. 21, 2014, 128 Stat. 1026, 1030.)

AMENDMENT OF SUBSECTION (D)(1)

Pub. L. 112–141, div. F, title II, §100209(a), July 6, 2012, 126 Stat. 920; Pub. L. 112–281, §1, Jan. 14, 2013, 126 Stat. 2485; Pub. L. 113–89, §25(a), (b)(1), Mar. 21, 2014, 128 Stat. 1030, provided that, applicable to any loan that is originated, refinanced, increased, extended, or renewed on or after Jan. 1, 2016, with provision for optional applicability, subsection (d)(1) of this section is amended to read as follows:

(1) Regulated lending institutions

(A) Federal entities responsible for lending regulations

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

(B) Limitation

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

(i) if—

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

(II) on or before July 6, 2012, the regulated lending institution—

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

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

(ii) in the case of a loan that—

(I) is in a junior or subordinate position to a senior lien secured by the same residential improved real estate or mobile home for which flood insurance is being provided at the time of the origination of the loan;

(II) is secured by residential improved real estate or a mobile home that is part of a condominium, cooperative, or other project development, if the residential improved real estate or mobile home is covered by a flood insurance policy that—

(aa) meets the requirements that the regulated lending institution is required to enforce under subsection (b)(1);

(bb) is provided by the condominium association, cooperative, homeowners association, or other applicable group; and

(cc) the premium for which is paid by the condominium association, cooperative, homeowners association, or other applicable group as a common expense;

(III) is secured by residential improved real estate or a mobile home that is used as collateral for a business purpose;

(IV) is a home equity line of credit;

(V) is a nonperforming loan; or

(VI) has a term of not longer than 12 months.

See 2012, 2013, and 2014 Amendment notes below.

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs. (a), (b), (d)(1), and (e)(1), and the Act, referred to in subsec. (b), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to this chapter (§4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Federal Financial Institutions Examination Council Act of 1974, referred to in subsec. (b)(1), probably means the Federal Financial Institutions Examination Council Act of 1978, Pub. L. 95–630, title X, Nov. 10, 1978, 92 Stat. 3694, which is classified principally to chapter 34 (§3301 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of Title 12 and Tables.

Section 522(a) of Public Law 103–325, referred to in subsec. (b)(4)(C), was in original “section 522(a) of such Act”, which generally amended subsec. (b) of this section.

This title, referred to in subsec. (e)(5)(B), (C), means title I of Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 977, which enacted this section and section 4104 of this title and amended sections 4001, 4013 to 4016, 4026, 4054, 4056, and 4121 of this title.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2014—Subsec. (c)(3). Pub. L. 113–89, §13(a), added par. (3).

Subsec. (d)(1)(A). Pub. L. 113–89, §25(a)(1), substituted “subparagraph (B)” for “subparagraph (C)”.

Subsec. (d)(1)(B). Pub. L. 113–89, §25(a)(2), substituted “under subparagraph (A)—” for “under subparagraph (A) or (B), if—” in introductory provisions, designated existing provisions as cl. (i) and inserted “if—” after cl. (i) designation, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i), redesignated former subcls. (I) and (II) as items (aa) and (bb), respectively, of subcl. (II), and added cl. (ii).

2013—Subsec. (d)(1)(A). Pub. L. 112–281 inserted “residential” before “improved real estate” in two places.

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

Subsec. (b)(1). Pub. L. 112–141, §100239(a)(1), substituted “; and” for period at end, substituted “institutions—” for “institutions”, inserted subpar. (A) designation before “not to make”, and added

subpar. (B).

Pub. L. 112–141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (b)(2). Pub. L. 112–141, §100239(a)(2), substituted “paragraph (1)(A)” for “paragraph (1)” in two places and inserted “Each Federal agency lender shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under the preceding sentence if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such sentence.” after first sentence.

Pub. L. 112–141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (b)(3). Pub. L. 112–141, §100239(a)(3), substituted “paragraph (1)(A). The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall accept private flood insurance as satisfaction of the flood insurance coverage requirement under paragraph (1)(A) if the flood insurance coverage provided by such private flood insurance meets the requirements for coverage under such paragraph and any requirements established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, respectively, relating to the financial solvency, strength, or claims-paying ability of private insurance companies from which the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation will accept private flood insurance.” for “paragraph (1).” in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 112–141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (b)(5) to (7). Pub. L. 112–141, §100239(a)(4), added pars. (5) to (7).

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

Subsec. (d)(1). Pub. L. 112–141, §100238(a)(1), substituted “Administrator” for “Director”.

Pub. L. 112–141, §100209(a), amended par. (1) generally. Prior to amendment, text read as follows: “Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the Administrator or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed.”

Subsec. (e)(1). Pub. L. 112–141, §100238(a)(1), substituted “Administrator” for “Director”.

Subsec. (e)(2). Pub. L. 112–141, §100244(a)(1), substituted “purchasing the insurance, including premiums or fees incurred for coverage beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount” for “purchasing the insurance”.

Subsec. (e)(3). Pub. L. 112–141, §100244(a)(3), added par. (3). Former par. (3) redesignated (5).

Subsec. (e)(3). Pub. L. 112–141, §100238(a)(1), substituted “Administrator” for “Director” wherever appearing.

Subsec. (e)(4) to (6). Pub. L. 112–141, §100244(a)(2), (3), added par. (4) and redesignated former pars. (3) and (4) as (5) and (6), respectively.

Subsec. (f)(5). Pub. L. 112–141, §100208, substituted “\$2,000” for “\$350” and struck out at end “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.”

Subsec. (h)(1)(B). Pub. L. 112–141, §100238(a)(1), substituted “Administrator” for “Director”.

2008—Subsec. (f)(3)(A). Pub. L. 110–289 substituted “Director of the Federal Housing Finance Agency” for “Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development”.

1994—Pub. L. 103–325, §531, substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103–325, §582(c), struck out “, during the anticipated economic or useful life of the project,” before “covered by flood insurance” and inserted at end “The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.”

Subsec. (b). Pub. L. 103–325, §522(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after the expiration of sixty days following December 31, 1973, any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.”

Subsec. (c). Pub. L. 103–325, §522(b), inserted heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsecs. (d) to (h). Pub. L. 103–325, §§523–526, added subsecs. (d) to (h).

1983—Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–89, §25(b)(1), Mar. 21, 2014, 128 Stat. 1031, provided that:

“(1) IN GENERAL.—

“(A) REQUIRED APPLICATION.—The amendments to section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)) made by section 100209(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 920) and by subsection (a) of this section shall apply to any loan that is originated, refinanced, increased, extended, or renewed on or after January 1, 2016.

“(B) OPTIONAL APPLICATION.—

“(i) DEFINITIONS.—In this subparagraph—

“(I) the terms ‘Federal entity for lending regulation’, ‘improved real estate’, ‘regulated lending institution’, and ‘servicer’ have the meanings given the terms in section 3 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003);

“(II) the term ‘outstanding loan’ means a loan that—

“(aa) is outstanding as of January 1, 2016;

“(bb) is not subject to the requirement to escrow premiums and fees for flood insurance under section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)) as in effect on July 5, 2012; and

“(cc) would, if the loan had been originated, refinanced, increased, extended, or renewed on or after January 1, 2016, be subject to the requirements under section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973, as amended; and

“(III) the term ‘section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973, as amended’ means section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)(A)), as amended by—

“(aa) section 100209(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 920); and

“(bb) subsection (a) of this section.

“(ii) OPTION TO ESCROW FLOOD INSURANCE PAYMENTS.—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that each regulated lending institution or servicer of an outstanding loan shall offer and make available to a borrower the option to have the borrower's payment of premiums and fees for flood insurance under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), including the escrow of such payments, be treated in the same manner provided under section 102(d)(1)(A) of the Flood Disaster Protection Act of 1973, as amended.”

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–141, div. F, title II, §100209(b), July 6, 2012, 126 Stat. 920, which provided that the amendment made to this section by section 100209(a) of Pub. L. 112–141 would apply to any mortgage outstanding or entered into on or after the expiration of the 2-year period beginning on July 6, 2012,

was repealed by Pub. L. 113–89, §25(b)(2), Mar. 21, 2014, 128 Stat. 1032. For effective date of amendment by section 100209(a) of Pub. L. 112–141, see Effective Date of 2014 Amendment note above.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 582(c) of Pub. L. 103–325 applicable to disasters declared after Sept. 23, 1994, see section 5154a(e) of this title.

RULE OF CONSTRUCTION

Pub. L. 113–89, §25(b)(3), Mar. 21, 2014, 128 Stat. 1032, provided that: “Nothing in this section [amending this section and enacting and repealing provisions set out as notes under this section] or the amendments made by this section shall be construed to supersede, during the period beginning on July 6, 2012 and ending on December 31, 2015, the requirements under section 102(d)(1) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)(1)), as in effect on July 5, 2012.”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TREATMENT OF FLOODPROOFED RESIDENTIAL BASEMENTS

Pub. L. 113–89, §21, Mar. 21, 2014, 128 Stat. 1028, provided that: “The Administrator [of the Federal Emergency Management Agency] shall continue to extend exceptions and variances for flood-proofed basements consistent with section 60.6 of title 44, Code of Federal Regulations, which are effective April 3, 2009; and section 60.3 of such title, which are effective April 3, 2009.”

¹ *So in original. The word “is” probably should not appear.*

² *See References in Text note below.*

³ *So in original. Probably should be “Agency”.*

⁴ *So in original. Probably should be followed by “of the National Flood Insurance Act of 1968”.*

§4013. Nature and limitation of insurance coverage

(a) Regulations respecting general terms and conditions of insurability

The Administrator shall from time to time, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for flood insurance coverage under section 4012 of this title, including—

- (1) the types, classes, and locations of any such properties which shall be eligible for flood insurance;
- (2) the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;
- (3) the classification, limitation, and rejection of any risks which may be advisable;
- (4) appropriate minimum premiums;
- (5) appropriate loss-deductibles; and

(6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the purposes of this chapter.

(b) Regulations respecting amount of coverage

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

(1) any flood insurance coverage based on chargeable premium rates under section 4015 of this title which are less than the estimated premium rates under section 4014(a)(1) of this title shall not exceed—

(A) in the case of residential properties—

(i) \$35,000 aggregate liability for any single-family dwelling, and \$100,000 for any residential structure containing more than one dwelling unit,

(ii) \$10,000 aggregate liability per dwelling unit for any contents related to such unit, and

(iii) in the States of Alaska and Hawaii, and in the Virgin Islands and Guam; the limits provided in clause (i) of this sentence shall be: \$50,000 aggregate liability for any single-family dwelling, and \$150,000 for any residential structure containing more than one dwelling unit;

(B) in the case of business properties which are owned or leased and operated by small business concerns, an aggregate liability with respect to any single structure, including any contents thereof related to premises of small business occupants (as that term is defined by the Administrator), which shall be equal to (i) \$100,000 plus (ii) \$100,000 multiplied by the number of such occupants and shall be allocated among such occupants (or among the occupant or occupants and the owner) under regulations prescribed by the Administrator; except that the aggregate liability for the structure itself may in no case exceed \$100,000; and

(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 4012 of this title—

(i) \$100,000 aggregate liability for any single structure, and

(ii) \$100,000 aggregate liability per unit for any contents related to such unit; and

(2) in the case of any residential building designed for the occupancy of from 1 to 4 families for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i)) of \$250,000;

(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, 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;

(4) in the case of any nonresidential building, including a church, for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000, and coverage shall be made available up to a total of \$500,000 aggregate liability for contents owned by the building owner and \$500,000 aggregate liability for each unit within the building for contents owned by the tenant; and

(5) any flood insurance coverage 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 4015 of this title, which are not less than the estimated premium rates under section 4014(a)(1) of this title, 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.

(c) Effective date of policies

(1) Waiting period

Except as provided in paragraph (2), coverage under a new contract for flood insurance coverage under this chapter entered into after September 23, 1994, and any modification to coverage under an existing flood insurance contract made after September 23, 1994, shall become effective upon the expiration of the 30-day period beginning on the date that all obligations for such coverage (including completion of the application and payment of any initial premiums owed) are satisfactorily completed.

(2) Exception

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

(A) the initial purchase of flood insurance coverage under this chapter when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan;

(B) the initial purchase of flood insurance coverage pursuant to a revision or updating of floodplain areas or flood-risk zones under section 4101(f) of this title, if such purchase occurs during the 1-year period beginning upon publication of notice of the revision or updating under section 4101(h) of this title; or

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

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

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

(d) Optional high-deductible policies for residential properties

(1) Availability

In the case of residential properties, the Administrator shall make flood insurance coverage available, at the option of the insured, that provides for a loss-deductible for damage to the covered property in various amounts, up to and including \$10,000.

(2) Disclosure

(A) Form

The Administrator shall provide the information described in subparagraph (B) clearly and conspicuously on the application form for flood insurance coverage or on a separate form, segregated from all unrelated information and other required disclosures.

(B) Information

The information described in this subparagraph is—

(i) information sufficient to inform the applicant of the availability of the coverage option required by paragraph (1) to applicants for flood insurance coverage; and

(ii) a statement explaining the effect of a loss-deductible and that, in the event of an insured loss, the insured is responsible out-of-pocket for losses to the extent of the deductible selected.

(Pub. L. 90–448, title XIII, §1306, Aug. 1, 1968, 82 Stat. 575; Pub. L. 92–213, §2(c)(2), Dec. 22, 1971, 85 Stat. 775; Pub. L. 93–234, title I, §101, Dec. 31, 1973, 87 Stat. 977; Pub. L. 95–128, title VII, §704(a), Oct. 12, 1977, 91 Stat. 1145; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 100–242, title V, §544(a), Feb. 5, 1988, 101 Stat. 1940; Pub. L. 100–628, title X, §1086(a), Nov. 7, 1988, 102 Stat. 3278; Pub. L. 100–707, title I, §109(o), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101–137, §1(c), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101–508, title II, §2302(d), Nov. 5, 1990, 104 Stat. 1388–23; Pub. L. 103–325, title V, §§552(a), 573, 579(a), Sept. 23, 1994, 108 Stat. 2269, 2278, 2284; Pub. L. 112–141, div. F, title II, §§100228, 100238(b)(1), 100241, July 6, 2012, 126 Stat. 944, 958, 962; Pub. L. 113–89, §12, Mar. 21, 2014, 128 Stat. 1025.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(6) and (c)(1), (2)(A), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (d). Pub. L. 113–89 added subsec. (d).

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

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

Subsec. (b)(2). Pub. L. 112–141, §100228(1), substituted “in the case of any residential building designed for the occupancy of from 1 to 4 families” for “in the case of any residential property” and “shall be made available, with respect to any single such building, up to an aggregate liability (including such limits specified in paragraph (1)(A)(i)) of \$250,000” for “shall be made available to every insured upon renewal and every applicant for insurance so as to enable such insured or

applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(i)) of \$250,000”.

Subsec. (b)(4). Pub. L. 112–141, §100228(2), substituted “in the case of any nonresidential building, including a church,” for “in the case of any nonresidential property, including churches,” and “shall be made available with respect to any single such building, up to an aggregate liability (including such limits specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000, and coverage shall be made available up to a total of \$500,000 aggregate liability for contents owned by the building owner and \$500,000 aggregate liability for each unit within the building for contents owned by the tenant” for “shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of \$500,000 for each structure and \$500,000 for any contents related to each structure”.

Subsec. (c)(2)(C). Pub. L. 112–141, §100241, added subpar. (C).

1994—Subsec. (b)(2). Pub. L. 103–325, §573(a)(1), substituted “a total amount (including such limits specified in paragraph (1)(A)(i)) of \$250,000” for “an amount of \$150,000 under the provisions of this clause”.

Subsec. (b)(3). Pub. L. 103–325, §573(a)(2), substituted “a total amount (including such limits specified in paragraph (1)(A)(ii)) of \$100,000” for “an amount of \$50,000 under the provisions of this clause”.

Subsec. (b)(4). Pub. L. 103–325, §573(a)(3), added par. (4) and struck out former par. (4) which read as follows: “in the case of business property owned, leased, or operated by small business concerns for which the risk premium rate is determined in accordance with the provisions of section 4014(a)(1) of this title, additional flood insurance in excess of the limits specified in subparagraph (B) of paragraph (1) shall be made available to every such owner, lessee, or operator in respect to any single structure, including any contents thereof, related to premises of small business occupants (as that term is defined by the Director), up to an amount equal to (i) \$250,000 plus (ii) \$200,000 multiplied by the number of such occupants which coverage shall be allocated among such occupants (or among the occupant or occupants and the owner) in accordance with the regulations prescribed by the Director pursuant to such subparagraph (B), except that the aggregate liability for the structure itself may in no case exceed \$250,000;”.

Subsec. (b)(5). Pub. L. 103–325, §573(b)(1), substituted a period for “; and” at end.

Subsec. (b)(6). Pub. L. 103–325, §573(b)(2), struck out par. (6) which read as follows: “the flood insurance purchase requirements of section 4012a of this title do not apply to the additional flood insurance limits made available in excess of twice the limits made available under paragraph (1).”

Subsec. (c). Pub. L. 103–325, §579(a), added subsec. (c).

Pub. L. 103–325, §552(a), struck out subsec. (c) which related to schedule for payment of flood insurance for structures on land subject to imminent collapse or subsidence.

1990—Subsec. (c)(7). Pub. L. 101–508 substituted “September 30, 1995” for “September 30, 1991”.

1989—Subsec. (c)(7). Pub. L. 101–137 substituted “September 30, 1991” for “September 30, 1989”.

1988—Subsec. (c). Pub. L. 100–242 added subsec. (c).

Subsec. (c)(1)(A). Pub. L. 100–628 substituted “following” for “Following” in cls. (i) and (ii).

Subsec. (c)(5). Pub. L. 100–707 substituted “Disaster Relief and Emergency Assistance Act” for “Disaster Relief Act of 1974”.

1983—Subsecs. (a), (b)(1)(B), (4). Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

1977—Subsec. (b)(2). Pub. L. 95–128 added par. (2) and redesignated former par. (2) as (5).

Subsec. (b)(3), (4). Pub. L. 95–128 added pars. (3) and (4).

Subsec. (b)(5). Pub. L. 95–128 redesignated former par. (2) as (5), struck out “(or allocated to any person under subparagraph (B) of such paragraph)” after “paragraph (1)”, and inserted “under paragraph (1)(C), (2), (3), or (4), as applicable” after “(or allocated)”.

Subsec. (b)(6). Pub. L. 95–128 added par. (6).

1973—Subsec. (b)(1)(A). Pub. L. 93–234, §101(a), in increasing limits of coverage, struck out following introductory text “residential properties” the clause “which are designed for the occupancy of from one to four families”; substituted provisions in cl. (i) “\$35,000 aggregate liability for any single-family dwelling, and \$100,000 for any residential structure containing more than one dwelling unit” for

“\$17,500 aggregate liability for any dwelling unit, and \$30,000 for any single dwelling structure containing more than one dwelling unit”; increased cl. (ii) limits to \$10,000 from \$5,000 and added cl. (iii).

Subsec. (b)(1)(B). Pub. L. 93–234, §101(b), substituted “\$100,000” for “\$30,000” in cl. (i), for “\$5,000” in cl. (ii), and for “\$30,000” in exception provision.

Subsec. (b)(1)(C). Pub. L. 93–234, §101(c), increased cl. (i) limits to \$100,000 from \$30,000 and substituted cl. (ii) “\$100,000 aggregate liability per unit for any contents related to such unit” for “\$5,000 aggregate liability per dwelling unit for any contents related to such unit in the case of residential properties, or per occupant (as that term is defined by the Secretary) for any contents related to the premises occupied in the case of any other properties”.

1971—Subsec. (b)(1)(C). Pub. L. 92–213 inserted “church properties, and” before “any other properties which may become”.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–242, title V, §544(b), Feb. 5, 1988, 101 Stat. 1942, provided that: “The amendment made by this section [amending this section] shall become effective on the date of the enactment of this Act [Feb. 5, 1988].”

SAVINGS PROVISION

Pub. L. 103–325, title V, §552(c), Sept. 23, 1994, 108 Stat. 2269, required the Director of the Federal Emergency Management Agency to make payments under flood insurance contracts based on commitments made before the expiration of the 1-year period beginning on Sept. 23, 1994, pursuant to the authority under subsec. (c) of this section or section 552(b) of Pub. L. 103–325, formerly set out below.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRANSITION PHASE

Pub. L. 103–325, title V, §552(b), Sept. 23, 1994, 108 Stat. 2269, permitted the Director of the Federal Emergency Management Agency to pay amounts under flood insurance contracts for demolition or relocation of structures as provided in subsec. (c) of this section (as in effect immediately before the enactment of Pub. L. 103–325), during the 1-year period beginning on Sept. 23, 1994.

§4013a. Policy disclosures

(a) In general

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

(b) Violations

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

(Pub. L. 112–141, div. F, title II, §100234, July 6, 2012, 126 Stat. 956.)

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP-21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

§4014. Estimates of premium rates

(a) Studies and investigations

The Administrator is authorized to undertake and carry out such studies and investigations and receive or exchange such information as may be necessary to estimate, and shall from time to time estimate, on an area, subdivision, or other appropriate basis—

(1) the risk premium rates for flood insurance which—

(A) based on consideration of—

(i) the risk involved and accepted actuarial principles; and

(ii) the flood mitigation activities that an owner or lessee has undertaken on a property, including differences in the risk involved due to land use measures, floodproofing, flood forecasting, and similar measures, and

(B) including—

(i) the applicable operating costs and allowances set forth in the schedules prescribed under section 4018 of this title and reflected in such rates,

(ii) any administrative expenses (or portion of such expenses) of carrying out the flood insurance program which, in his discretion, should properly be reflected in such rates,

(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commissions, company expense allowances, or State or local premium taxes, and

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

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

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

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

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage is available under section 4012(a) of this title (or is recommended to the Congress under section 4012(b) of this title);

(2) the rates, if less than the rates estimated under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase flood insurance, and would be consistent with the purposes of this chapter, and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title), except that the Administrator shall not estimate rates under this paragraph for—

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

(B) any severe repetitive loss property;

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

(D) any business property; or

(E) any property which on or after July 6, 2012, has experienced or sustained—

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

(ii) substantial improvement exceeding 50 percent of the fair market value of such property; and

(3) the extent, if any, to which federally assisted or other flood protection measures initiated after August 1,

1968, affect such rates.

(b) Utilization of services of other Departments and agencies

In carrying out subsection (a) of this section, the Administrator shall, to the maximum extent feasible and on a reimbursement basis, utilize the services of the Department of the Army, the Department of the Interior, the Department of Agriculture, the Department of Commerce, and the Tennessee Valley Authority, and, as appropriate, other Federal departments or agencies, and for such purposes may enter into agreements or other appropriate arrangements with any persons.

(c) Priority to studies and investigations in States or areas evidencing positive interest in securing insurance under program

The Administrator shall give priority to conducting studies and investigations and making estimates under this section in those States or areas (or subdivisions thereof) which he has determined have evidenced a positive interest in securing flood insurance coverage under the flood insurance program.

(d) Parishes of Louisiana; premium rates

Notwithstanding any other provision of law, any structure existing on December 31, 1973, and located within Avoyelles, Evangeline, Rapides, or Saint Landry Parish in the State of Louisiana, which the Secretary determines is subject to additional flood hazards as a result of the construction or operation of the Atchafalaya Basin Levee System, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates that shall not exceed those which would be applicable if such additional hazards did not exist.

(e) Eligibility of community making adequate progress on construction of flood protection system for rates not exceeding those applicable to completed flood protection system; determination of adequate progress

Notwithstanding any other provision of law, any community that has made adequate progress, acceptable to the Administrator, on the construction or reconstruction of a flood protection system which will afford flood protection for the one-hundred year frequency flood as determined by the Administrator, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates not exceeding those which would be applicable under this section if such flood protection system had been completed. The Administrator shall find that adequate progress on the construction or reconstruction of a flood protection system, based on the present value of the completed flood protection system, has been made only if: (1) 100 percent of the cost of the system has been authorized; (2) at least 60 percent of the cost of the system has been appropriated; (3) at least 50 percent of the cost of the system has been expended; and (4) the system is at least 50 percent completed. Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds.

(f) Availability of flood insurance in communities restoring discredited flood protection systems; criteria; rates

Notwithstanding any other provision of law, this subsection shall apply to riverine and coastal levees that are located in a community which has been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so, and shall apply without regard to the level of Federal funding of or participation in the construction, reconstruction, or improvement of the flood protection system. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the discreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Administrator for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the discreditation of the flood protection system. A community will be considered to be in the process of restoration if—

- (1) the flood protection system has been deemed restorable by a Federal agency in consultation with the local project sponsor;
- (2) a minimum level of flood protection is still provided to the community by the discredited system; and
- (3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

Communities that the Administrator of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction, provided the base flood elevation based on the discredited flood control system does not exceed five feet above existing grade, or the remaining new construction in such communities is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas.

The Administrator of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after October 28, 1992.

(g) No extension of subsidy to new policies or lapsed policies

The Administrator shall not provide flood insurance to prospective insureds at rates less than those estimated under subsection (a)(1), as required by paragraph (2) of that subsection, for—

- (1) any policy under the flood insurance program that has lapsed in coverage,¹ unless the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage; or
- (2) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—
 - (A) following a major disaster, as defined in section 5122 of this title; or
 - (B) in connection with—
 - (i) a repetitive loss property; or
 - (ii) a severe repetitive loss property.

(h) Definition

In this section, the term “severe repetitive loss property” has the following meaning:

(1) Single-family properties

- In the case of a property consisting of 1 to 4 residences, such term means a property that—
- (A) is covered under a contract for flood insurance made available under this chapter; and
 - (B) has incurred flood-related damage—
 - (i) for which 4 or more separate claims payments have been made under flood insurance coverage under this subchapter, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or
 - (ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

(2) Multifamily properties

In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director² shall by regulation provide.

(Pub. L. 90–448, title XIII, §1307, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93–234, title I, §109, Dec. 31, 1973, 87 Stat. 980; Pub. L. 93–383, title VIII, §816(b), Aug. 22, 1974, 88 Stat. 739; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101–508, title II, §2302(e)(1), Nov. 5, 1990, 104 Stat. 1388–24; Pub. L. 102–550, title IX, §928, Oct. 28, 1992, 106 Stat. 3886; Pub. L. 112–123, §2(a), May 31, 2012, 126 Stat. 365; Pub. L. 112–141, div. F, title II, §§100205(a)(1), (b), 100238(b)(1), July 6, 2012, 126 Stat. 917, 918, 958; Pub. L. 113–89, §§3(a)(1), 14, 15, 19, Mar. 21, 2014, 128 Stat. 1021, 1026, 1027.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2), (d), (e), and (h)(1)(A), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (a)(1)(A). Pub. L. 113–89, §14, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “based on consideration of the risk involved and accepted actuarial

principles, and”.

Subsec. (a)(2)(E)(ii). Pub. L. 113–89, §15, substituted “50 percent” for “30 percent”.

Subsec. (e). Pub. L. 113–89, §19(a)(3), inserted before period at end “Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds.”

Pub. L. 113–89, §19(a)(1), (2), inserted “or reconstruction” after “construction” in first sentence and amended second sentence generally. Prior to amendment, second sentence read as follows: “The Administrator shall find that adequate progress on the construction of a flood protection system as required herein has been only if (1) 100 percent of the project cost of the system has been authorized, (2) at least 60 percent of the project cost of the system has been appropriated, (3) at least 50 percent of the project cost of the system has been expended, and (4) the system is at least 50 percent completed.”

Subsec. (f). Pub. L. 113–89, §19(b), amended first sentence generally. Prior to amendment, first sentence read as follows: “Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so.”

Subsec. (g). Pub. L. 113–89, §3(a)(1), redesignated pars. (3) and (4) as (1) and (2), respectively, substituted “, unless the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage” for “as a result of the deliberate choice of the holder of such policy” in par. (1) as redesignated, and struck out former pars. (1) and (2), which read as follows:

“(1) any property not insured by the flood insurance program as of July 6, 2012;

“(2) any property purchased after July 6, 2012;”.

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

Subsec. (a)(1)(B)(iv). Pub. L. 112–141, §100205(b), added cl. (iv).

Subsec. (a)(2). Pub. L. 112–141, §100205(a)(1)(A), substituted “for—” for “for any residential property which is not the primary residence of an individual; and” and added subpars. (A) to (E).

Pub. L. 112–123 inserted “, except that the Administrator shall not estimate rates under this paragraph for any residential property which is not the primary residence of an individual” before “; and”.

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

Subsecs. (g), (h). Pub. L. 112–141, §100205(a)(1)(B), added subsecs. (g) and (h).

1992—Subsec. (f). Pub. L. 102–550 added subsec. (f).

1990—Subsec. (a)(1)(B)(iii). Pub. L. 101–508, §2302(e)(1)(A)–(C), added cl. (iii).

Subsec. (a)(2). Pub. L. 101–508, §2302(e)(1)(D), inserted before semicolon “, and which, together with a fee charged to policyholders that shall not be not subject to any agents’ commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title)”.

1983—Subsecs. (a) to (c), (e). Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

1974—Subsec. (e). Pub. L. 93–383 added subsec. (e).

1973—Subsec. (d). Pub. L. 93–234 added subsec. (d).

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–141, div. F, title II, §100205(a)(2), July 6, 2012, 126 Stat. 918, provided that: “The amendments made by paragraph (1) [amending this section] shall become effective 90 days after the date of enactment of this Act [July 6, 2012].”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and

liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REPEAL OF CERTAIN RATE INCREASES

Pub. L. 113–89, §3, Mar. 21, 2014, 128 Stat. 1021, provided that:

“(a) REPEAL.—

“(1) IN GENERAL.—[Amended this section.]

“(2) EFFECTIVE DATE.—The Administrator [of the Federal Emergency Management Agency] shall make available such rate tables, as necessary to implement the amendments made by paragraph (1) as if it were enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012 ([subtitle A of title II of div. F of] Public Law 112–141; 126 Stat. 957 [sic]).

“(3) IMPLEMENTATION, COORDINATION, AND GUIDANCE.—

“(A) FACILITATION OF TIMELY REFUNDS.—To ensure the participation of Write Your Own companies (as such term is defined in section 100202(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4004(a)), the Administrator and the Federal Emergency Management Agency shall consult with Write Your Own companies throughout the development of guidance and rate tables necessary to implement the provisions of and the amendments made by this Act [see Short Title of 2014 Amendment note set out under section 4001 of this title].

“(B) IMPLEMENTATION AND GUIDANCE.—The Administrator shall issue final guidance and rate tables necessary to implement the provisions of and the amendments made by this Act not later than eight months following the date of the enactment of this Act [Mar. 21, 2014]. Write Your Own companies, in coordination with the Federal Emergency Management Agency, shall have not less than six months but not more than eight months following the issuance of such final guidance and rate tables to implement the changes required by such final guidance and rate tables.

“(4) REFUND OF EXCESS PREMIUM CHARGES COLLECTED.—The Administrator shall refund directly to insureds any premiums for flood insurance coverage under the National Flood Insurance Program [defined as the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.)] collected in excess of the rates required under the provisions of and amendments made by this section [amending this section]. To allow for necessary and appropriate implementation of such provisions and amendments, any premium changes necessary to implement such provisions and amendments, including any such premium refund due to policy holders, which shall be paid directly by the National Flood Insurance Program, shall not be charged or paid to policyholders by the National Flood Insurance Program until after the Administrator issues guidance and makes available such rate tables to implement the provisions of and amendments made by this Act.

“(b) ASSUMPTION OF POLICIES AT EXISTING PREMIUM RATES.—The Administrator shall provide that the purchaser of a property that, as of the date of such purchase, is covered under an existing flood insurance policy under this title [probably means the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq.] may assume such existing policy and coverage for the remainder of the term of the policy at the chargeable premium rates under such existing policy. Such rates shall continue with respect to such property until the implementation of subsection (a).”

CHANGES IN RATES RESULTING FROM PUB. L. 113–89

Pub. L. 113–89, §31(a), Mar. 21, 2014, 128 Stat. 1035, provided that: “Not later than the date that is 6 months before the date on which any change in risk premium rates for flood insurance coverage under the National Flood Insurance Program [defined as the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.)] resulting from this Act [see Short Title of 2014 Amendment note set out under section 4001 of this title] or any amendment made by this Act is implemented, the Administrator [of the Federal Emergency Management Agency] shall make publicly

available the rate tables and underwriting guidelines that provide the basis for the change.”

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

Pub. L. 112–141, div. F, title II, §100230, July 6, 2012, 126 Stat. 946, provided that:

“(a) ELIGIBILITY FOR FLOOD INSURANCE COVERAGE.—

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

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

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

“(2) ADEQUATE PROGRESS.—

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

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

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

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

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

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

“(C) DATE OF COMMENCEMENT.—For purposes of subparagraph (A)(iv) of this paragraph and subsection (b)(2)(B), the date of commencement of the reconstruction or improvement of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act [July 6, 2012] shall be deemed to be the date on which the owner of the flood protection system submits a request under paragraph (3).

“(3) REQUEST FOR DETERMINATION.—The owner of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act [July 6, 2012] may submit to the Administrator a request for a determination under paragraph (2) that the community in which the flood protection system is located has made adequate progress on the reconstruction or improvement of the flood protection system.

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

“(b) TERMINATION OF ELIGIBILITY.—

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

“(A) a requirement that the Administrator shall—

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

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

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

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

“(ii) after each consultation under clause (i), determine whether the reconstruction or

improvement is reasonably likely to be completed in accordance with the project schedule described in subsection (a)(2)(A)(iv); and

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

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

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

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

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

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

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

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

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

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

“(c) ADDITIONAL AUTHORITY.—

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

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

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

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

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

community.

“(3) TERMINATION.—The authority provided under paragraphs (1) and (2) shall terminate two years after the enactment of this Act [July 6, 2012].”

[For definitions of terms used in section 100230 of Pub. L. 112–141, set out above, see section 4004 of this title.]

FEES

Pub. L. 108–7, div. K, title III, Feb. 20, 2003, 117 Stat. 517, provided in part: “That beginning in fiscal year 2003 and thereafter, fees authorized in 42 U.S.C. 4014(a)(1)(B)(iii) shall be collected only if provided in advance in appropriations acts.”

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

Pub. L. 103–325, title V, §578, Sept. 23, 1994, 108 Stat. 2284, required the Director of the Federal Emergency Management Agency to conduct a study of the economic effects that would result from increasing premium rates for flood insurance coverage for pre-FIRM structures and submit a report to Congress no later than 12 months after Sept. 23, 1994.

SEA LEVEL RISE STUDY

Pub. L. 101–137, §5, Nov. 3, 1989, 103 Stat. 825, directed Director of Federal Emergency Management Agency to conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps, such study also to project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region, with Director to report results of study to Congress not later than one year after Nov. 3, 1989.

¹ *So in original.*

² *So in original. Probably means “Administrator”.*

§4015. Chargeable premium rates

(a) Establishment; terms and conditions

On the basis of estimates made under section 4014 of this title, and such other information as may be necessary, the Administrator shall from time to time prescribe, after providing notice—

- (1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 4012 of this title (at less than the estimated risk premium rates under section 4014(a)(1) of this title, where necessary), and
- (2) the terms and conditions under which, and the areas (including subdivisions thereof) within which, such rates shall apply.

(b) Considerations for rates

Such rates shall, insofar as practicable, be—

- (1) based on a consideration of the respective risks involved, including differences in risks due to land use measures, flood-proofing, flood forecasting, and similar measures;
- (2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase such insurance and with the purposes of this chapter;
- (3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 4014(a) of this title, to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title);
- (4) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates under section 4014(a)(1) of this title and the estimated rates under section 4014(a)(2) of this title; and
- (5) adequate, on the basis of accepted actuarial principles, to cover the average historical loss year obligations incurred by the National Flood Insurance Fund.

(c) Actuarial rate properties

Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title with respect to the following properties:

(1) Post-firm properties

Any property the construction or substantial improvement of which the Administrator determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Administrator under paragraph (2) of section 4101 of this title 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) of this section.

(2) Certain leased coastal and river properties

Any property leased from the Federal Government (including residential and nonresidential properties) that the Administrator 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.

(d) Payment of certain sums to Administrator; deposits in Fund

With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 4014(a) of this title or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Administrator. The Administrator shall deposit the sum in the National Flood Insurance Fund established under section 4017 of this title.

(e) Annual limitation on premium increases

Except with respect to properties described under paragraph (2) of subsection (c) of this section, and notwithstanding any other provision of this chapter—

(1) the chargeable risk premium rate for flood insurance under this chapter for any property may not be increased by more than 18 percent each year, except—

(A) as provided in paragraph (4);

(B) in the case of property identified under section 4014(g) of this title; or

(C) in the case of a property that—

(i) is located in a community that has experienced a rating downgrade under the community rating system program carried out under section 4022(b) of this title;

(ii) is covered by a policy with respect to which the policyholder has—

(I) decreased the amount of the deductible; or

(II) increased the amount of coverage; or

(iii) was misrated;

(2) the chargeable risk premium rates for flood insurance under this chapter for any properties initially rated under section 4014(a)(2) of this title within any single risk classification, excluding properties for which the chargeable risk premium rate is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title, shall be increased by an amount that results in an average of such rate increases for properties within the risk classification during any 12-month period of not less than 5 percent of the average of the risk premium rates for such properties within the risk classification upon the commencement of such 12-month period;

(3) the chargeable risk premium rates for flood insurance under this chapter 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 15 percent of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period; and

(4) the chargeable risk premium rates for flood insurance under this chapter for any properties described in subparagraphs (A) through (E) of section 4014(a)(2) of this title shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (3).

(f) Adjustment of premium

Notwithstanding any other provision of law, if the Administrator determines that the holder of a flood insurance policy issued under this chapter is paying a lower premium than is required under this section due to an error in the flood plain determination, the Administrator may only prospectively charge the higher premium rate.

(g) Frequency of premium collection

With respect to any chargeable premium rate prescribed under this section, the Administrator shall provide policyholders that are not required to escrow their premiums and fees for flood insurance as set forth under section 4012a of this title with the option of paying their premiums annually or monthly.

(h) Rule of construction

For purposes of this section, the calculation of an “average historical loss year”—

- (1) includes catastrophic loss years; and
- (2) shall be computed in accordance with generally accepted actuarial principles.

(i) Rates for properties newly mapped into areas with special flood hazards

Notwithstanding subsection (f), the premium rate for flood insurance under this chapter that is purchased on or after March 21, 2014—

- (1) on a property located in an area not previously designated as having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in a flood insurance map, becomes designated as such an area; and
- (2) where such flood insurance premium rate is calculated under subsection (a)(1) of section 4014 of this title,

shall for the first policy year be the preferred risk premium for the property and upon renewal shall be calculated in accordance with subsection (e) of this section until the rate reaches the rate calculated under subsection (a)(1) of section 4014 of this title.

(j) Premiums and reports

In setting premium risk rates, in addition to striving to achieve the objectives of this chapter the Administrator shall also strive to minimize the number of policies with annual premiums that exceed one percent of the total coverage provided by the policy. For any policies premiums that exceed this one percent threshold, the Administrator shall report such exceptions to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(k) Consideration of mitigation methods

In calculating the risk premium rate charged for flood insurance for a property under this section, the Administrator shall take into account the implementation of any mitigation method identified by the Administrator in the guidance issued under section 4102(d) of this title.

(l) Clear communications

The Administrator shall clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.

(m) Protection of small businesses, non-profits, houses of worship, and residences

(1) Report

Not later than 18 months after March 21, 2014,¹ and semiannually thereafter, the Administrator shall monitor and report to Committee on Financial Services of the House Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Administrator's assessment of the impact, if any, of the rate increases required under subparagraphs (A) and (D) of section 4014(a)(2) of this title and the surcharges required under section 4015a of this title on the affordability of flood insurance for—

- (A) small businesses with less than 100 employees;
- (B) non-profit entities;
- (C) houses of worship; and
- (D) residences with a value equal to or less than 25 percent of the median home value of properties in the State in which the property is located.

(2) Recommendations

If the Administrator determines that the rate increases or surcharges described in paragraph (1) are having a detrimental effect on affordability, including resulting in lapsed policies, late payments, or other criteria related to affordability as identified by the Administrator, for any of the properties identified in subparagraphs (A) through (D) of such paragraph, the Administrator shall, not later than 3 months after making such a determination, make such recommendations as the Administrator considers appropriate to improve affordability to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(Pub. L. 90–448, title XIII, §1308, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93–234, title I, §103, Dec. 31, 1973, 87 Stat. 978; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101–508, title II, §2302(e)(2),

Nov. 5, 1990, 104 Stat. 1388–24; Pub. L. 103–325, title V, §572(a), Sept. 23, 1994, 108 Stat. 2277; Pub. L. 108–264, title I, §106, title II, §209, June 30, 2004, 118 Stat. 724, 727; Pub. L. 112–123, §2(b), May 31, 2012, 126 Stat. 365; Pub. L. 112–141, div. F, title II, §§100205(c), (d), 100207, 100211, 100238(b)(1), July 6, 2012, 126 Stat. 918, 919, 921, 958; Pub. L. 113–89, §§4(a), 5–7, 11(a), 26(b), 28, 29, Mar. 21, 2014, 128 Stat. 1022, 1023, 1025, 1033.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2), (e), (i), and (j), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

This chapter, referred to in subsec. (f), was in the original “this Act”, and was translated as reading “this title”, meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Flood Disaster Protection Act of 1973, referred to in subsec. (h), is Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

The Biggert-Waters Flood Insurance Reform Act of 2012, referred to in subsec. (h), is subtitle A (§§100201–100249) of title II of div. F of Pub. L. 112–141, July 6, 2012, 126 Stat. 916. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 4001 of this title and Tables.

March 21, 2014, referred to in subsec. (m)(1), was in the original “the date of the enactment of this section”, and was translated as reading “the date of the enactment of this subsection”, meaning the date of enactment of Pub. L. 113–89, which enacted subsec. (m), to reflect the probable intent of Congress.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113–89, §5(1), struck out “, the chargeable risk premium rates for flood insurance under this chapter for any properties” before dash at end of introductory provisions.

Subsec. (e)(1), (2). Pub. L. 113–89, §5(5), added pars. (1) and (2). Former pars. (1) and (2) redesignated (3) and (4), respectively.

Pub. L. 113–89, §5(2), (3), inserted “the chargeable risk premium rates for flood insurance under this chapter for any properties” at beginning.

Subsec. (e)(3). Pub. L. 113–89, §5(4), (6), redesignated par. (1) as (3) and substituted “15 percent” for “20 percent”.

Subsec. (e)(4). Pub. L. 113–89, §5(4), (7), redesignated par. (2) as (4) and substituted “paragraph (3)” for “paragraph (1)”.

Subsec. (g). Pub. L. 113–89, §11(a), substituted “annually or monthly” for “either annually or in more frequent installments”.

Subsec. (h). Pub. L. 113–89, §4(a), redesignated subsec. (i) as (h) and struck out former subsec. (h) which related to premium adjustment to reflect current risk of flood.

Subsec. (i). Pub. L. 113–89, §6, added subsec. (i). Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 113–89, §7, added subsec. (j).

Subsec. (k). Pub. L. 113–89, §26(b), added subsec. (k).

Subsec. (l). Pub. L. 113–89, §28, added subsec. (l).

Subsec. (m). Pub. L. 113–89, §29, added subsec. (m).

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

Pub. L. 112–141, §100211(1), in introductory provisions, substituted “prescribe, after providing notice” for “, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, prescribe by regulation”.

Subsec. (b)(5). Pub. L. 112–141, §100211(2), added par. (5).

Subsecs. (c), (d). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” wherever appearing.

Subsec. (e). Pub. L. 112–141, §100205(c)(1), struck out “or (3)” after “paragraph (2)” and inserted “any properties” after “under this chapter for” in introductory provisions.

Pub. L. 112–123 substituted “under this chapter for—” for “under this chapter for”, inserted par. (1) designation before “any properties”, and added par. (2).

Subsec. (e)(1). Pub. L. 112–141, §100205(c)(2), substituted “within any single” for “any properties within any single” and “20 percent” for “10 percent”.

Subsec. (e)(2). Pub. L. 112–141, §100205(c)(3), added par. (2) and struck out former par. (2) which read as follows: “any residential properties which are not the primary residence of an individual, as described in section 4014(a)(2) of this title, shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (1).”

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

Subsec. (g). Pub. L. 112–141, §100205(d), added subsec. (g).

Subsec. (h). Pub. L. 112–141, §100207, added subsec. (h).

Subsec. (i). Pub. L. 112–141, §100211(3), added subsec. (i).

2004—Subsec. (c). Pub. L. 108–264, §106(a), added subsec. (c) and struck out former subsec. (c) which read as follows “Subject only to the limitation under subsection (e) of this section, the chargeable rate with respect to any property, the construction or substantial improvements of which the Director determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Director under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title.”

Subsec. (e). Pub. L. 108–264, §106(b), substituted “Except with respect to properties described under paragraph (2) or (3) of subsection (c) of this section, and notwithstanding” for “Notwithstanding”.

Subsec. (f). Pub. L. 108–264, §209, added subsec. (f).

1994—Subsec. (c). Pub. L. 103–325, §572(a)(1), substituted “Subject only to the limitation under subsection (e) of this section” for “Notwithstanding any other provision of this chapter”.

Subsec. (e). Pub. L. 103–325, §572(a)(2), added subsec. (e).

1990—Subsec. (b)(3), (4). Pub. L. 101–508, §2302(e)(2)(A), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 101–508, §2302(e)(2)(B), added subsec. (d) and struck out former subsec. (d) which read as follows: “In the event any chargeable premium rate prescribed under this section—

“(1) is a rate which is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title, and

“(2) includes any amount for administrative expenses of carrying out the flood insurance program which have been estimated under clause (ii) of section 4014(a)(1)(B) of this title, a sum equal to such amount shall be paid to the Director, and he shall deposit such sum in the National Flood Insurance Fund established under section 4017 of this title.”

1983—Subsecs. (a), (c), (d). Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

1973—Subsec. (c). Pub. L. 93–234 substituted “started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later” for “started after the identification of the area in which such property is located has been published under paragraph (1) of section 4101 of this title”.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–89, §4(b), Mar. 21, 2014, 128 Stat. 1022, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as if enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012 ([subtitle A of title II of div. F of] Public Law 112–141; 126 Stat. 957 [sic]).”

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–123, §2(c), May 31, 2012, 126 Stat. 365, provided that: “The first increase in chargeable

risk premium rates for residential properties which are not the primary residence of an individual under section 1308(e)(2) of the National Flood Insurance Act of 1968 [former 42 U.S.C. 4015(e)(2)], as added by this Act, shall take effect on July 1, 2012, and the chargeable risk premium rates for such properties shall be increased by 25 percent each year thereafter, as provided in such section 1308(e)(2).”

CONSTRUCTION OF AMENDMENT BY PUB. L. 112–141

Pub. L. 112–141, div. F, title II, §100205(e), July 6, 2012, 126 Stat. 919, provided that: “Nothing in this section [amending this section and section 4014 of this title and enacting provisions set out as a note under section 4014 of this title] or the amendments made by this section may be construed to affect the requirement under section 2(c) of the Act entitled ‘An Act to extend the National Flood Insurance Program, and for other purposes’, approved May 31, 2012 (Public Law 112–123) [set out above], that the first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual take effect on July 1, 2012.”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPLEMENTATION

Pub. L. 113–89, §11(b), Mar. 21, 2014, 128 Stat. 1025, provided that: “The Administrator [of the Federal Emergency Management Agency] shall implement the requirement under section 1308(g) of the National Flood Insurance Act of 1968 [42 U.S.C. 4015(g)], as amended by subsection (a), not later than the expiration of the 18-month period beginning on the date of the enactment of this Act [Mar. 21, 2014].”

LIMITATION ON PREMIUMS

Pub. L. 101–508, title II, §2302(e)(5), Nov. 5, 1990, 104 Stat. 1388–25, provided that, notwithstanding section 541(d) of Pub. L. 100–242, formerly set out below, premium rates charged for flood insurance under any program established pursuant to this chapter could be increased by more than 10 percent during fiscal year 1991, with certain exceptions.

Pub. L. 100–242, title V, §541(d), Feb. 5, 1988, 101 Stat. 1939, as amended by Pub. L. 101–137, §1(d), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101–508, title II, §2302(c), Nov. 5, 1990, 104 Stat. 1388–23, limited increases in premium rates charged for flood insurance under programs established pursuant to this chapter during period beginning Feb. 5, 1988, and ending Sept. 30, 1995, to prorated annual rate of 10 percent, prior to repeal by Pub. L. 103–325, title V, §572(b), Sept. 23, 1994, 108 Stat. 2278.

Pub. L. 98–181, title I [title IV, §451(g)(1)], Nov. 30, 1983, 97 Stat. 1229, provided that premium rates charged for flood insurance under any program established pursuant to this chapter could not be increased during the period beginning Nov. 30, 1983, and ending Sept. 30, 1984.

¹ *See References in Text note below.*

§4015a. Premium surcharge

(a) Imposition and collection

The Administrator shall impose and collect an annual surcharge, in the amount provided in subsection (b), on all

policies for flood insurance coverage under the National Flood Insurance Program that are newly issued or renewed after March 21, 2014. Such surcharge shall be in addition to the surcharge under section 4011(b) of this title and any other assessments and surcharges applied to such coverage.

(b) Amount

The amount of the surcharge under subsection (a) shall be—

- (1) \$25, except as provided in paragraph (2); and
- (2) \$250, in the case of a policy for any property that is—
 - (A) a non-residential property; or
 - (B) a residential property that is not the primary residence of an individual.

(c) Termination

Subsections (a) and (b) shall cease to apply on the date on which the chargeable risk premium rate for flood insurance under this chapter for each property covered by flood insurance under this chapter, other than properties for which premiums are calculated under subsection (e) or (f) of section 4014 of this title or section 4056 of this title or under section 100230 of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4014 note), is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title for such property.

(Pub. L. 90–448, title XIII, §1308A, as added Pub. L. 113–89, §8(a), Mar. 21, 2014, 128 Stat. 1023.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 100230 of the Biggert-Waters Flood Insurance Reform Act of 2012, referred to in subsec. (c), is section 100230 of Pub. L. 112–141, which is set out as a note under section 4014 of this title.

§4016. Financing

(a) Authority to issue notes and other obligations

All authority which was vested in the Housing and Home Finance Administrator by virtue of section 2414(e) of this title (pertaining to the issue of notes or other obligations to the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Administrator for the purpose of carrying out the flood insurance program under this chapter; except that the total amount of notes and obligations which may be issued by the Administrator 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 4026 of this title, and \$1,000,000,000 thereafter; except that, through September 30, 2017, clause (2) of this sentence shall be applied by substituting “\$30,425,000,000” for “\$1,500,000,000”. The Administrator 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.

(b) Deposit of borrowed funds

Any funds borrowed by the Administrator under this authority shall, from time to time, be deposited in the National Flood Insurance Fund established under section 4017 of this title.

(c) Schedule of repayments

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

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

(d) Reports on repayment

In connection with any funds borrowed by the Administrator under the authority established in subsection (a), the Administrator, beginning 6 months after the date on which such funds are borrowed, and continuing every 6 months thereafter until such borrowed funds are fully repaid, shall submit a report on the progress of such repayment to—

- (1) the Secretary of the Treasury;
- (2) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

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

(Pub. L. 90–448, title XIII, §1309, Aug. 1, 1968, 82 Stat. 577; Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669; Pub. L. 93–234, title I, §104, Dec. 31, 1973, 87 Stat. 979; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98–479, title II, §204(g), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 104–208, div. A, title V, Sept. 30, 1996, 110 Stat. 3009–521; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1377; Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2502; Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1088; Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–47; Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 689; Pub. L. 108–3, §2(a)(1), Jan. 13, 2003, 117 Stat. 7; Pub. L. 108–171, §2(a)(2), Dec. 6, 2003, 117 Stat. 2064; Pub. L. 108–199, div. H, §136(a)(2), Jan. 23, 2004, 118 Stat. 442; Pub. L. 108–264, title I, §101(a), June 30, 2004, 118 Stat. 714; Pub. L. 109–65, §2, Sept. 20, 2005, 119 Stat. 1998; Pub. L. 109–106, §2, Nov. 21, 2005, 119 Stat. 2288; Pub. L. 109–208, §2, Mar. 23, 2006, 120 Stat. 317; Pub. L. 111–196, §2(b), July 2, 2010, 124 Stat. 1352; Pub. L. 111–250, §2(b), Sept. 30, 2010, 124 Stat. 2630; Pub. L. 112–74, div. D, title V, §573, Dec. 23, 2011, 125 Stat. 985; Pub. L. 112–123, §1(b), May 31, 2012, 126 Stat. 365; Pub. L. 112–141, div. F, title II, §§100203(a), 100213(a), 100238(b)(1), July 6, 2012, 126 Stat. 916, 923, 958; Pub. L. 113–1, §1(a), Jan. 6, 2013, 127 Stat. 3.)

REFERENCES IN TEXT

Section 1303 of this Act, referred to in subsec. (a), means section 1303 of Pub. L. 90–448, which amended section 2414(e) of this title.

This chapter, referred to in subsec. (a), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–1 substituted “\$30,425,000,000” for “\$20,725,000,000”.

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

Pub. L. 112–141, §100203(a), substituted “September 30, 2017” for “July 31, 2012”.

Pub. L. 112–123 substituted “July 31, 2012” for “the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012”.

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

Subsecs. (c), (d). Pub. L. 112–141, §100213(a), added subsecs. (c) and (d).

2011—Subsec. (a). Pub. L. 112–74 substituted “the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012” for “September 30, 2011”.

2010—Subsec. (a). Pub. L. 111–250 substituted “September 30, 2011” for “September 30, 2010”.

Pub. L. 111–196 substituted “September 30, 2010” for “September 30, 2008” and “\$20,725,000,000” for “\$20,775,000,000”.

2006—Subsec. (a). Pub. L. 109–208 substituted “\$20,775,000,000” for “\$18,500,000,000” in first sentence.

2005—Subsec. (a). Pub. L. 109–106 substituted “\$18,500,000,000” for “\$3,500,000,000” in first sentence.

Pub. L. 109–65 inserted “; except that, through September 30, 2008, clause (2) of this sentence shall be applied by substituting ‘\$3,500,000,000’ for ‘\$1,500,000,000’ ” before period at end of first sentence.

2004—Subsec. (a). Pub. L. 108–264, §101(a), which directed amendment of first sentence of subsec. (a) by substituting “through the date specified in section 4026 of this title, and” for “ ‘through December’ and all that follows through ‘, and’ ”, could not be executed because the language to be struck out did not appear subsequent to amendment by Pub. L. 108–171. See 2003 Amendment note below.

Pub. L. 108–199 made amendment identical to that made by Pub. L. 108–171. See 2003 Amendment note below.

2003—Subsec. (a)(2). Pub. L. 108–171 substituted “the date specified in section 4026 of this title” for “December 31, 2003”.

Pub. L. 108–3 substituted “December 31, 2003” for “December 31, 2002”.

2001—Subsec. (a)(2). Pub. L. 107–73 substituted “2002” for “2001”.

2000—Subsec. (a)(2). Pub. L. 106–377 substituted “December 31, 2001” for “September 30, 2000”.

1999—Subsec. (a)(2). Pub. L. 106–74, which directed substitution of “2000” for “1999” in section “1309(a)(2) of the National Flood Insurance Act”, was executed to subsec. (a)(2) of this section, which is section 1309 of the National Flood Insurance Act of 1968, to reflect the probable intent of Congress.

1998—Subsec. (a)(2). Pub. L. 105–276, which directed substitution of “1999” for “1998” in section “1309(a)(2) of the National Flood Insurance Act”, was executed by making the substitution in subsec. (a)(2) of this section, which is section 1309 of the National Flood Insurance Act of 1968, to reflect the probable intent of Congress.

1997—Subsec. (a)(2). Pub. L. 105–65, which directed substitution of “1998” for “1997” in section “1309(a)(2) of the National Flood Insurance Act”, was executed by making the substitution in subsec. (a)(2) of this section, which is section 1309 of the National Flood Insurance Act of 1968, to reflect the probable intent of Congress.

1996—Subsec. (a)(2). Pub. L. 104–208 substituted “\$1,500,000,000 through September 30, 1997, and \$1,000,000,000 thereafter” for “\$1,000,000,000”.

1984—Subsec. (a). Pub. L. 98–479 substituted “, Finance and Urban Affairs” for “and Currency” and inserted a comma after “Housing” in last sentence.

1983—Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

1973—Subsec. (a). Pub. L. 93–234 substituted provisions respecting issuance of notes and obligation for \$500,000,000 without approval of President and for \$1,000,000,000 with approval of President, for former provision prescribing a \$250,000,000 limitation, struck out provision rescinding authority of Secretary to issue notes and obligations under section 2414(e) of this title, and provided for report to Congressional Committees when the approval of the President is requested.

CHANGE OF NAME

Reference to the Director of the Federal Emergency Management Agency in any law, rule, regulation, certificate, directive, instruction, or other official paper, considered to refer and apply to the Administrator of the Federal Emergency Management Agency, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security.

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–196, §2(c), July 2, 2010, 124 Stat. 1352, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 4026 of this title] shall be considered to have taken effect on May 31, 2010.”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–199, div. H, §136(b), Jan. 23, 2004, 118 Stat. 442, provided that: “The amendments made by this section [amending this section and sections 4026, 4056, and 4127 of this title] shall be considered to have taken effect on December 31, 2003.”

EFFECTIVE DATE OF 2003 AMENDMENTS

Pub. L. 108–171, §2(b), Dec. 6, 2003, 117 Stat. 2064, provided that: “The amendments made by this section [amending this section and sections 4026, 4056, and 4127 of this title] shall be considered to have taken effect on December 31, 2003.”

Pub. L. 108–3, §2(b), Jan. 13, 2003, 117 Stat. 7, provided that: “The amendments made by this section [amending this section and sections 4026, 4056, and 4127 of this title] shall be considered to have taken effect on December 31, 2002.”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and

liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions vested in Secretary of Housing and Urban Development pursuant to this chapter transferred to Director of Federal Emergency Management Agency pursuant to Reorg. Plan No. 3 of 1978, §202, June 19, 1978, 43 F.R. 41944, 92 Stat. 3788, set out as a note under section 2201 of Title 15, Commerce and Trade, effective Apr. 1, 1979, as provided by Ex. Ord. No. 12127, Mar. 31, 1979, 44 F.R. 19367, set out as a note under section 2201 of Title 15.

Functions of Housing and Home Finance Agency and head thereof transferred to Secretary of Housing and Urban Development by Pub. L. 89–174, §5(a), Sept. 9, 1965, 79 Stat. 669, which is classified to section 3534(a) of this title. Section 9(c) of such act, set out as a note under section 3531 of this title, provides that references to Housing and Home Finance Agency or to any agency or officer therein are to be deemed to mean Secretary of Housing and Urban Development and that Housing and Home Finance Agency has lapsed.

EXTENSION OF LIMITATION ON FINANCING PROVISIONS

Subsec. (a) of this section to be applied by substituting “September 30, 2009” for “September 30, 2008”, see section 145 of Pub. L. 110–329, set out as a note under section 4026 of this title.

§4017. National Flood Insurance Fund

(a) Establishment; availability

To carry out the flood insurance program authorized by this chapter, the Administrator 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 Administrator and shall be available as described in subsection (f) of this section, without fiscal year limitation (except as otherwise provided in this section)—

- (1) for making such payments as may, from time to time, be required under section 4054 of this title;
- (2) to pay reinsurance claims under the excess loss reinsurance coverage provided under section 4055 of this title;
- (3) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 4016 of this title; and
- (4) to the extent approved in appropriations Acts, to pay any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title);
- (5) for the purposes specified in subsection (d) of this section under the conditions provided therein;
- (6) for carrying out the program under section 4022(b) of this title;
- (7) for transfers to the National Flood Mitigation Fund, but only to the extent provided in section 4104d(b)(1) of this title; and
- (8) for carrying out section 4104(f) of this title.

(b) Credits to Fund

The fund shall be credited with—

- (1) such funds borrowed in accordance with the authority provided in section 4016 of this title as may from time to time be deposited in the fund;
- (2) premiums, fees, or other charges which may be paid or collected in connection with the excess loss reinsurance coverage provided under section 4055 of this title;
- (3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;
- (4) interest which may be earned on investments of the fund pursuant to subsection (c) of this section;
- (5) such sums as are required to be paid to the Administrator under section 4015(d) of this title; and
- (6) receipts from any other operations under this chapter (including premiums under the conditions specified in

subsection (d) of this section, and salvage proceeds, if any, resulting from reinsurance coverage).

(c) Investment of moneys in obligations issued or guaranteed by United States

If, after—

- (1) all outstanding obligations of the fund have been liquidated, and
- (2) any outstanding amounts which may have been advanced to the fund from appropriations authorized under section 4127(a)(2)(B) of this title have been credited to the appropriation from which advanced, with interest accrued at the rate prescribed under section 2414(e) of this title, as in effect immediately prior to August 1, 1968,

the Administrator determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(d) Availability of Fund if operation of program is carried out through facilities of Federal Government

In the event the Administrator makes a determination in accordance with the provisions of section 4071 of this title that operation of the flood insurance program, in whole or in part, should be carried out through the facilities of the Federal Government, the fund shall be available for all purposes incident thereto, including—

- (1) cost incurred in the adjustment and payment of any claims for losses, and
- (2) payment of applicable operating costs set forth in the schedules prescribed under section 4018 of this title,

for so long as the program is so carried out, and in such event any premiums paid shall be deposited by the Administrator to the credit of the fund.

(e) Annual budget

An annual business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by sections 9103 and 9104 of title 31 for wholly-owned Government corporations.

(f) Availability of funds dependent on future appropriations acts

The fund shall be available, with respect to any fiscal year beginning on or after October 1, 1981, only to the extent approved in appropriation Acts; except that the fund shall be available for the purpose described in subsection (d)(1) of this section without such approval.

(Pub. L. 90–448, title XIII, §1310, Aug. 1, 1968, 82 Stat. 577; Pub. L. 97–35, title III, §341(c), Aug. 13, 1981, 95 Stat. 419; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98–479, title II, §203(j)(1), Oct. 17, 1984, 98 Stat. 2231; Pub. L. 100–242, title V, §545(d), Feb. 5, 1988, 101 Stat. 1942; Pub. L. 101–508, title II, §2302(e)(3), Nov. 5, 1990, 104 Stat. 1388–24; Pub. L. 103–325, title V, §§542, 554(b), 577(h), Sept. 23, 1994, 108 Stat. 2269, 2274, 2283; Pub. L. 108–264, title I, §§102(b), 104(b), June 30, 2004, 118 Stat. 721, 723; Pub. L. 112–141, div. F, title II, §§100225(d), 100238(b)(1), July 6, 2012, 126 Stat. 941, 958; Pub. L. 113–89, §18(b), Mar. 21, 2014, 128 Stat. 1027.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(6), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (a)(8). Pub. L. 113–89 added par. (8).

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

Subsec. (a)(6) to (9). Pub. L. 112–141, §100225(d), inserted “and” at end of par. (6), substituted period for semicolon at end of par. (7), and struck out pars. (8) and (9) which read as follows:

“(8) for financial assistance under section 4102a of this title to States and communities for taking actions under such section with respect to severe repetitive loss properties, but only to the extent provided in section 4102a(i) of this title; and

“(9) for funding, not to exceed \$10,000,000 in any fiscal year, for mitigation actions under section 4030 of this title, except that, notwithstanding any other provision of this chapter, amounts made available pursuant to this paragraph shall not be subject to offsetting collections through premium rates for flood insurance coverage under this chapter.”

Subsecs. (b)(5), (c), (d). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” wherever appearing.

2004—Subsec. (a)(7), (8). Pub. L. 108–264, §102(b), struck out “and” at end of par. (7), added par. (8), and struck out former par. (8) which read as follows: “for costs of preparing the report under section 577 of the Riegle Community Development and Regulatory Improvement Act of 1994, except that the fund shall be available for the purpose under this paragraph in an amount not to exceed an aggregate of \$5,000,000 over the 2-year period beginning on September 23, 1994.”

Subsec. (a)(9). Pub. L. 108–264, §104(b), added par. (9).

1994—Subsec. (a). Pub. L. 103–325, §§554(b)(1), 577(h)(1), in introductory provisions, substituted “shall” for “is authorized to” after “Director”, inserted “an account separate from any other accounts or funds available to the Director and shall be” after “which shall be”, and inserted “(except as otherwise provided in this section)” after “without fiscal year limitation”.

Subsec. (a)(6) to (8). Pub. L. 103–325, §§542, 554(b)(2), 577(h)(2), added pars. (6) to (8), respectively.

1990—Subsec. (a)(4). Pub. L. 101–508 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “to pay such administrative expenses (or portion of such expenses) of carrying out the flood insurance program as he may deem necessary; and”.

1988—Subsec. (e). Pub. L. 100–242 substituted “title 31, United States Code,” for “title 31, United States Code”, which for purposes of codification was translated as “title 31”, requiring no change in text.

1984—Subsec. (e). Pub. L. 98–479 substituted “sections 9103 and 9104 of title 31” for “law (sections 102, 103, and 104 of the Government Corporations Control Act (31 U.S.C. 847–849))”.

1983—Subsecs. (a), (b)(5), (c), (d). Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

1981—Subsec. (a). Pub. L. 97–35, §341(c)(1), inserted reference to subsec. (f) of this section.

Subsec. (f). Pub. L. 97–35, §341(c)(2), added subsec. (f).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4017a. Reserve Fund

(a) Establishment of Reserve Fund

In carrying out the flood insurance program authorized by this subchapter, the Administrator shall establish in the Treasury of the United States a National Flood Insurance Reserve Fund (in this section referred to as the “Reserve Fund”) which shall—

- (1) be an account separate from any other accounts or funds available to the Administrator; and
- (2) be available for meeting the expected future obligations of the flood insurance program, including—
 - (A) the payment of claims;
 - (B) claims adjustment expenses; and
 - (C) the repayment of amounts outstanding under any note or other obligation issued by the Administrator under section 4016(a) of this title.

(b) Reserve ratio

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

- (1) 1 percent of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year; or
- (2) such higher percentage as the Administrator determines to be appropriate, taking into consideration any circumstance that may raise a significant risk of substantial future losses to the Reserve Fund.

(c) Maintenance of reserve ratio

(1) In general

The Administrator shall have the authority to establish, increase, or decrease the amount of aggregate annual insurance premiums to be collected for any fiscal year necessary—

- (A) to maintain the reserve ratio required under subsection (b); and
- (B) to achieve such reserve ratio, if the actual balance of such reserve is below the amount required under subsection (b).

(2) Considerations

In exercising the authority granted under paragraph (1), the Administrator shall consider—

- (A) the expected operating expenses of the Reserve Fund;
- (B) the insurance loss expenditures under the flood insurance program;
- (C) any investment income generated under the flood insurance program; and
- (D) any other factor that the Administrator determines appropriate.

(3) Limitations

(A) Rates

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

(B) Use of additional annual insurance premiums

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

(4) Deposit of premium surcharges

The Administrator shall deposit in the Reserve Fund any surcharges collected pursuant to section 4015a of this title.

(d) Phase-in requirements

The phase-in requirements under this subsection are as follows:

(1) In general

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

(2) Amount satisfied

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

(3) Exception

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

(e) Limitation on reserve ratio

In any given fiscal year, if the Administrator determines that the reserve ratio required under subsection (b) cannot be achieved, the Administrator shall submit, on a calendar quarterly basis, a report to Congress that—

- (1) describes and details the specific concerns of the Administrator regarding the consequences of the reserve ratio not being achieved;
- (2) demonstrates how such consequences would harm the long-term financial soundness of the flood

insurance program; and

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

(f) Investment

The Secretary of the Treasury shall invest such amounts of the Reserve Fund as the Secretary determines advisable in obligations issued or guaranteed by the United States.

(Pub. L. 90–448, title XIII, §1310A, as added Pub. L. 112–141, div. F, title II, §100212, July 6, 2012, 126 Stat. 922; amended Pub. L. 113–89, §§8(b), 20, Mar. 21, 2014, 128 Stat. 1024, 1028.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3)(A), was in the original “this Act”, and was translated as reading “this title”, meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (c)(4). Pub. L. 113–89, §8(b), added par. (4).

Subsec. (e). Pub. L. 113–89, §20, inserted “, on a calendar quarterly basis,” after “submit” in introductory provisions.

§4018. Operating costs and allowances; definitions

(a) The Administrator shall from time to time negotiate with appropriate representatives of the insurance industry for the purpose of establishing—

(1) a current schedule of operating costs applicable both to risk-sharing insurance companies and other insurers and to insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations participating on other than a risk-sharing basis, and

(2) a current schedule of operating allowances applicable to risk-sharing insurance companies and other insurers,

which may be payable in accordance with the provisions of subchapter II of this chapter, and such schedules shall from time to time be prescribed in regulations.

(b) For purposes of subsection (a) of this section—

(1) the term “operating costs” shall (without limiting such term) include—

(A) expense reimbursements covering the direct, actual, and necessary expenses incurred in connection with selling and servicing flood insurance coverage;

(B) reasonable compensation payable for selling and servicing flood insurance coverage, or commissions or service fees paid to producers;

(C) loss adjustment expenses; and

(D) other direct, actual, and necessary expenses which the Administrator finds are incurred in connection with selling or servicing flood insurance coverage; and

(2) the term “operating allowances” shall (without limiting such term) include amounts for profit and contingencies which the Administrator finds reasonable and necessary to carry out the purposes of this chapter.

(Pub. L. 90–448, title XIII, §1311, Aug. 1, 1968, 82 Stat. 579; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a), (b)(1)(D), (2). Pub. L. 112–141 substituted “Administrator” for “Director”.

1983—Subsecs. (a), (b)(1)(D), (2). Pub. L. 98–181 substituted “Director” for “Secretary” wherever

appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4019. Payment of claims

(a) In general

The Administrator 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 chapter.

(b) Minimum annual deductible

(1) Pre-firm properties

For any structure which is covered by flood insurance under this chapter, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Administrator under section 4101 of this title for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

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

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

(2) Post-firm properties

For any structure which is covered by flood insurance under this chapter, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Administrator under section 4101 of this title for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

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

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

(c) Payment of claims to condominium owners

The Administrator may not deny payment for any damage to or loss of property which is covered by flood insurance to condominium owners who purchased such flood insurance separate and apart from the flood insurance purchased by the condominium association in which such owner is a member, based solely, or in any part, on the flood insurance coverage of the condominium association or others on the overall property owned by the condominium association.

(Pub. L. 90–448, title XIII, §1312, Aug. 1, 1968, 82 Stat. 579; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100210, 100214, July 6, 2012, 126 Stat. 920, 924.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141, §100210, designated existing provisions as subsec. (a) and inserted heading, substituted “The Administrator is” for “The Director is”, and added subsec. (b).

Subsec. (c). Pub. L. 112–141, §100214, added subsec. (c).

1983—Pub. L. 98–181 substituted “Director” for “Secretary”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4020. Dissemination of flood insurance information

The Administrator shall from time to time take such action as may be necessary in order to make information and data available to the public, and to any State or local agency or official, with regard to—

(1) the flood insurance program, its coverage and objectives, and

(2) estimated and chargeable flood insurance premium rates, including the basis for and differences between such rates in accordance with the provisions of section 4015 of this title.

(Pub. L. 90–448, title XIII, §1313, Aug. 1, 1968, 82 Stat. 579; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” in introductory provisions.

1983—Pub. L. 98–181 substituted “Director” for “Secretary” in introductory provisions.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4021. Participation in State disaster claims mediation programs

(a) Requirement to participate

In the case of the occurrence of a major disaster, as defined in section 5122 of this title, that may have resulted in flood damage covered under the national flood insurance program established under this chapter and other personal lines residential property insurance coverage offered by a State regulated insurer, upon a request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Administrator in a program sponsored by such State for nonbinding mediation of insurance claims resulting from a major disaster, the Administrator shall cause representatives of the national flood insurance program to participate in such a State program where claims under

the national flood insurance program are involved to expedite settlement of flood damage claims resulting from such disaster.

(b) Extent of participation

In satisfying the requirements of subsection (a), the Administrator shall require that each representative of the Administrator—

- (1) be certified for purposes of the national flood insurance program to settle claims against such program resulting from such disaster in amounts up to the limits of policies under such program;
- (2) attend State-sponsored mediation meetings regarding flood insurance claims resulting from such disaster at such times and places as may be arranged by the State;
- (3) participate in good-faith negotiations toward the settlement of such claims with policyholders of coverage made available under the national flood insurance program; and
- (4) finalize the settlement of such claims on behalf of the national flood insurance program with such policyholders.

(c) Coordination

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

(d) Qualifications of mediators

Each State mediator participating in State-sponsored mediation under this section shall be—

- (1)(A) a member in good standing of the State bar in the State in which the mediation is to occur with at least 2 years of practical experience; and
- (B) an active member of such bar for at least 1 year prior to the year in which such mediator's participation is sought; or
- (2) a retired trial judge from any United States jurisdiction who was a member in good standing of the bar in the State in which the judge presided for at least 5 years prior to the year in which such mediator's participation is sought.

(e) Mediation proceedings and documents privileged

As a condition of participation, all statements made and documents produced pursuant to State-sponsored mediation involving representatives of the Administrator shall be deemed privileged and confidential settlement negotiations made in anticipation of litigation.

(f) Liability, rights, or obligations not affected

Participation in State-sponsored mediation, as described in this section does not—

- (1) affect or expand the liability of any party in contract or in tort; or
- (2) affect the rights or obligations of the parties, as established—
 - (A) in any regulation issued by the Administrator, including any regulation relating to a standard flood insurance policy;
 - (B) under this chapter; and
 - (C) under any other provision of Federal law.

(g) Exclusive Federal jurisdiction

Participation in State-sponsored mediation shall not alter, change, or modify the original exclusive jurisdiction of United States courts, as set forth in this chapter.

(h) Cost limitation

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

(i) Exception

In the case of the occurrence of a major disaster that results in flood damage claims under the national flood insurance program and that does not result in any loss covered by a personal lines residential property insurance policy—

- (1) this section shall not apply; and
- (2) the provisions of the standard flood insurance policy under the national flood insurance program and the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note) and the regulations issued pursuant to such section shall apply exclusively.

(j) Representatives of the Administrator

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

(Pub. L. 90–448, title XIII, §1314, as added Pub. L. 112–141, div. F, title II, §100223, July 6, 2012, 126 Stat. 934.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (f)(2)(B), and (g), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, referred to in subsecs. (i)(2) and (j), is section 205 of Pub. L. 108–264, which is set out in a note under section 4011 of this title.

PRIOR PROVISIONS

A prior section 4021, Pub. L. 90–448, title XIII, §1314, Aug. 1, 1968, 82 Stat. 579, which denied Federal disaster assistance after Dec. 31, 1973, to persons who for a period of a year or more could have purchased flood insurance but did not do so, and defined “Federal disaster assistance” and “financial assistance”, was repealed by Pub. L. 93–234, title II, §203, Dec. 31, 1973, 87 Stat. 982.

§4022. State and local land use controls

(a) Requirement for participation in flood insurance program

(1) In general

After December 31, 1971, no new flood insurance coverage shall be provided under this chapter 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 Administrator finds are consistent with the comprehensive criteria for land management and use under section 4102 of this title.

(2) Agricultural structures

(A) Activity restrictions

Notwithstanding any other provision of law, the adequate land use and control measures required to be adopted in an area (or subdivision thereof) pursuant to paragraph (1) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to predamaged conditions of an agricultural structure that—

(i) is a repetitive loss structure; or

(ii) has incurred flood-related damage to the extent that the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(B) Premium rates and coverage

To the extent applicable, an agricultural structure repaired or restored pursuant to subparagraph (A) shall pay chargeable premium rates established under section 4015 of this title at the estimated risk premium rates under section 4014(a)(1) of this title. If resources are available, the Administrator shall provide technical assistance and counseling, upon request of the owner of the structure, regarding wet flood-proofing and other flood damage reduction measures for agricultural structures. The Administrator shall not be required to make flood insurance coverage available for such an agricultural structure unless the structure is wet flood-proofed through permanent or contingent measures applied to the structure or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to pass through the structure, as determined by the Administrator.

(C) Prohibition on disaster relief

Notwithstanding any other provision of law, any agricultural structure repaired or restored pursuant to subparagraph (A) shall not be eligible for disaster relief assistance under any program administered by the Administrator or any other Federal agency.

(D) Definitions

For purposes of this paragraph—

(i) the term “agricultural structure” means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and

(ii) the term “agricultural commodities” means agricultural commodities and livestock.

(b) Community rating system and incentives for community floodplain management

(1) Authority and goals

The Administrator shall carry out a community rating system program, under which communities participate voluntarily—

(A) to provide incentives for measures that reduce the risk of flood or erosion damage that exceed the criteria set forth in section 4102 of this title and evaluate such measures;

(B) to encourage adoption of more effective measures that protect natural and beneficial floodplain functions;

(C) to encourage floodplain and erosion management; and

(D) to promote the reduction of Federal flood insurance losses.

(2) Incentives

The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Administrator determines have adopted and enforced measures that reduce the risk of flood and erosion damage that exceed the criteria set forth in section 4102 of this title. In providing incentives under this paragraph, the Administrator may provide for credits to flood insurance premium rates in communities that the Administrator determines have implemented measures that protect natural and beneficial floodplain functions.

(3) Credits

The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program. If a community has received mitigation assistance under section 4104c of this title, the credits shall be phased in a manner, determined by the Administrator, to recover the amount of such assistance provided for the community.

(4) Reports

Not later than 2 years after September 23, 1994, and not less than every 2 years thereafter, the Administrator shall submit a report to the Congress regarding the program under this subsection. Each report shall include an analysis of the cost-effectiveness of the program, any other accomplishments or shortcomings of the program, and any recommendations of the Administrator for legislation regarding the program.

(c) Replacement of mobile homes on original sites

(1) Community participation

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

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

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

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

(2) Definition

For purposes of this subsection, the term “mobile home” has the meaning given such term in the law of the State in which the mobile home is located.

(Pub. L. 90–448, title XIII, §1315, Aug. 1, 1968, 82 Stat. 580; Pub. L. 91–152, title IV, §410(b), Dec. 24, 1969, 83 Stat. 397; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §§541, 580, Sept. 23, 1994, 108 Stat. 2268, 2285; Pub. L. 108–264, title I, §108, June 30, 2004, 118 Stat. 724; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c)(1), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Flood Disaster Protection Act of 1973, referred to in subsec. (c)(1), is Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, as amended. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a)(1), (2)(B), (C), (b). Pub. L. 112–141 substituted “Administrator” for “Director” wherever appearing.

2004—Subsec. (c). Pub. L. 108–264 added subsec. (c).

1994—Subsec. (a)(1). Pub. L. 103–325, §541(1), designated existing provisions as subsec. (a)(1) and inserted headings.

Subsec. (a)(2). Pub. L. 103–325, §580, added par. (2).

Subsec. (b). Pub. L. 103–325, §541(2), added subsec. (b).

1983—Pub. L. 98–181 substituted “Director” for “Secretary”.

1969—Pub. L. 91–152 substituted provisions prohibiting new flood insurance coverage after Dec. 31, 1971, unless adequate land use measures have been adopted, for provisions prohibiting such coverage after June 30, 1970, unless permanent land use measures have been adopted.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4023. Properties in violation of State and local law

No new flood insurance coverage shall be provided under this chapter for any property which the Administrator 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.

(Pub. L. 90–448, title XIII, §1316, Aug. 1, 1968, 82 Stat. 580; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director”.

1983—Pub. L. 98–181 substituted “Director” for “Secretary”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency

relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4024. Coordination with other programs

In carrying out this chapter, the Administrator shall consult with other departments and agencies of the Federal Government, and with interstate, State, and local agencies having responsibilities for flood control, flood forecasting, or flood damage prevention, in order to assure that the programs of such agencies and the flood insurance program authorized under this chapter are mutually consistent.

(Pub. L. 90–448, title XIII, §1317, Aug. 1, 1968, 82 Stat. 581; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director”.

1983—Pub. L. 98–181 substituted “Director” for “Secretary”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4025. Flood insurance advisory committee

(a) Appointment; duties

The Administrator shall appoint a flood insurance advisory committee without regard to the provisions of title 5 governing appointments in the competitive service, and such committee shall advise the Administrator in the preparation of any regulations prescribed in accordance with this chapter and with respect to policy matters arising in the administration of this chapter, and shall perform such other responsibilities as the Administrator may, from time to time, assign to such committee.

(b) Membership

Such committee shall consist of not more than fifteen persons and such persons shall be selected from among representatives of—

- (1) the insurance industry,
- (2) State and local governments,
- (3) lending institutions,
- (4) the homebuilding industry, and
- (5) the general public.

(c) Compensation and travel expenses

Members of the committee shall, while attending conferences or meetings thereof, be entitled to receive

compensation at a rate fixed by the Administrator but not exceeding \$100 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5 for persons in the Government service employed intermittently.

(Pub. L. 90–448, title XIII, §1318, Aug. 1, 1968, 82 Stat. 581; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a), (c). Pub. L. 112–141 substituted “Administrator” for “Director” wherever appearing.

1983—Subsecs. (a), (c). Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§4026. Expiration of program

No new contract for flood insurance under this chapter shall be entered into after September 30, 2017.

(Pub. L. 90–448, title XIII, §1319, Aug. 1, 1968, 82 Stat. 581; Pub. L. 93–4, Feb. 2, 1973, 87 Stat. 4; Pub. L. 93–38, June 5, 1973, 87 Stat. 73; Pub. L. 93–234, title I, §105, Dec. 31, 1973, 87 Stat. 979; Pub. L. 95–60, §3, June 30, 1977, 91 Stat. 257; Pub. L. 95–80, §3, July 31, 1977, 91 Stat. 339; Pub. L. 95–128, title VII, §701(a), Oct. 12, 1977, 91 Stat. 1144; Pub. L. 95–406, §6(a), Sept. 30, 1978, 92 Stat. 880; Pub. L. 95–557, title III, §308(a), Oct. 31, 1978, 92 Stat. 2098; Pub. L. 96–153, title VI, §602(a), Dec. 21, 1979, 93 Stat. 1137; Pub. L. 97–35, title III, §341(b)(1), Aug. 13, 1981, 95 Stat. 418; Pub. L. 97–289, §4(a), Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98–35, §4(a), May 26, 1983, 97 Stat. 198; Pub. L. 98–109, §5(a), Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–181, title I [title IV, §451(a)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 99–120, §4(a)(1), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §4(a)(1), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §4(a)(1), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §4(a)(1), Mar. 27,

1986, 100 Stat. 74; Pub. L. 99–272, title III, §3010(a)(1), Apr. 7, 1986, 100 Stat. 106; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title V, §541(a), Feb. 5, 1988, 101 Stat. 1939; Pub. L. 101–137, §1(a), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101–508, title II, §2302(a), Nov. 5, 1990, 104 Stat. 1388–23; Pub. L. 103–325, title V, §571(a), Sept. 23, 1994, 108 Stat. 2277; Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2915; Pub. L. 105–46, §118, Sept. 30, 1997, 111 Stat. 1157; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1377; Pub. L. 105–276, title III, title V, §599D(a), Oct. 21, 1998, 112 Stat. 2502, 2663; Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 689; Pub. L. 108–3, §2(a)(2), Jan. 13, 2003, 117 Stat. 7; Pub. L. 108–171, §2(a)(1), Dec. 6, 2003, 117 Stat. 2064; Pub. L. 108–199, div. H, §136(a)(1), Jan. 23, 2004, 118 Stat. 442; Pub. L. 108–264, title I, §101(b), June 30, 2004, 118 Stat. 714; Pub. L. 111–196, §2(a), July 2, 2010, 124 Stat. 1352; Pub. L. 111–250, §2(a), Sept. 30, 2010, 124 Stat. 2630; Pub. L. 112–74, div. D, title V, §573, Dec. 23, 2011, 125 Stat. 985; Pub. L. 112–123, §1(a), May 31, 2012, 126 Stat. 365; Pub. L. 112–141, div. F, title II, §100203(b), July 6, 2012, 126 Stat. 916.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

- 2012**—Pub. L. 112–141 substituted “September 30, 2017” for “July 31, 2012”.
- Pub. L. 112–123 substituted “July 31, 2012” for “the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012”.
- 2011**—Pub. L. 112–74 substituted “the earlier of the date of the enactment into law of an Act that specifically amends the date specified in this section or May 31, 2012” for “September 30, 2011”.
- 2010**—Pub. L. 111–250 substituted “September 30, 2011” for “September 30, 2010”.
- Pub. L. 111–196 substituted “September 30, 2010” for “September 30, 2008”.
- 2004**—Pub. L. 108–264 substituted “after September 30, 2008” for “after March 31, 2004”.
- Pub. L. 108–199, which directed the substitution of “June 30, 2004.” for “December 31, 2003”, could not be executed because of the amendment by Pub. L. 108–171. See 2003 Amendment note below.
- 2003**—Pub. L. 108–171 substituted “March 31, 2004” for “December 31, 2003”.
- Pub. L. 108–3 substituted “after December 31, 2003” for “after December 31, 2002”.
- 2001**—Pub. L. 107–73 substituted “December 31, 2002” for “September 30, 2001”.
- 1998**—Pub. L. 105–276, §599D(a), which directed the substitution of “2001” for “1998”, was executed by substituting “2001” for “1999” to reflect the probable intent of Congress and the amendment by Pub. L. 105–276, title III, see below.
- Pub. L. 105–276, title III, substituted “1999” for “1998”.
- 1997**—Pub. L. 105–65 substituted “September 30, 1998” for “October 23, 1997”.
- Pub. L. 105–46 substituted “October 23, 1997” for “September 30, 1997”.
- 1996**—Pub. L. 104–204 substituted “September 30, 1997” for “September 30, 1996”.
- 1994**—Pub. L. 103–325 substituted “September 30, 1996” for “September 30, 1995”.
- 1990**—Pub. L. 101–508 substituted “September 30, 1995” for “September 30, 1991”.
- 1989**—Pub. L. 101–137 substituted “September 30, 1991” for “September 30, 1989”.
- 1988**—Pub. L. 100–242 substituted “September 30, 1989” for “March 15, 1988”.
- 1987**—Pub. L. 100–200 substituted “March 15, 1988” for “December 16, 1987”.
- Pub. L. 100–179 substituted “December 16, 1987” for “December 2, 1987”.
- Pub. L. 100–170 substituted “December 2, 1987” for “November 15, 1987”.
- Pub. L. 100–154 substituted “November 15, 1987” for “October 31, 1987”.
- Pub. L. 100–122 substituted “October 31, 1987” for “September 30, 1987”.
- 1986**—Pub. L. 99–430 substituted “September 30, 1987” for “September 30, 1986”.
- Pub. L. 99–345 substituted “September 30, 1986” for “June 6, 1986”.
- Pub. L. 99–289 substituted “June 6, 1986” for “April 30, 1986”.
- Pub. L. 99–272 directed amendment identical to Pub. L. 99–219 substituting “March 17, 1986” for “December 15, 1985”.

Pub. L. 99–267 substituted “April 30, 1986” for “March 17, 1986”.

1985—Pub. L. 99–219 substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99–156 substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99–120 substituted “November 14, 1985” for “September 30, 1985”.

1983—Pub. L. 98–181 substituted “September 30, 1985” for “November 30, 1983”.

Pub. L. 98–109 substituted “November 30, 1983” for “September 30, 1983”.

Pub. L. 98–35 substituted “September 30, 1983” for “May 20, 1983”.

1982—Pub. L. 97–289 substituted “May 20, 1983” for “September 30, 1982”.

1981—Pub. L. 97–35 substituted “1982” for “1981”.

1979—Pub. L. 96–153 substituted “September 30, 1981” for “September 30, 1980”.

1978—Pub. L. 95–557 substituted “September 30, 1980” for “October 31, 1978”.

Pub. L. 95–406 substituted “October 31, 1978” for “September 30, 1978”.

1977—Pub. L. 95–128 substituted “September 30, 1978” for “September 30, 1977”.

Pub. L. 95–80 substituted “September 30, 1977” for “July 31, 1977”.

Pub. L. 95–60 substituted “July 31, 1977” for “June 30, 1977”.

1973—Pub. L. 93–234 substituted expiration of program provisions for \$6,000,000,000 limitation on flood insurance coverage outstanding.

Pub. L. 93–38 substituted “\$6,000,000,000” for “\$4,000,000,000”.

Pub. L. 93–4 substituted “\$4,000,000,000” for “\$2,500,000,000”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–196 considered effective on May 31, 2010, see section 2(c) of Pub. L. 111–196, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–199 considered to have taken effect on Dec. 31, 2003, see section 136(b) of div. H of Pub. L. 108–199, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–171 effective Dec. 31, 2003, see section 2(b) of Pub. L. 108–171, set out as a note under section 4016 of this title.

Amendment by Pub. L. 108–3 effective Dec. 31, 2002, see section 2(b) of Pub. L. 108–3, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §599D(c), Oct. 21, 1998, 112 Stat. 2663, provided that: “The amendments made by this section [amending this section and section 4056 of this title] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

EXTENSION OF PROGRAM

Pub. L. 110–329, div. A, §145, Sept. 30, 2008, 122 Stat. 3581, as amended by Pub. L. 111–8, div. J, §101, Mar. 11, 2009, 123 Stat. 988, provided that: “Sections 1309(a) and 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a) and 4026) shall each be applied by substituting [‘]September 30, 2009[‘] for ‘September 30, 2008.’”

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

The expiration date of Oct. 23, 1997 (see 1997 Amendment note above) was temporarily extended to Nov. 7, 1997, by Pub. L. 105–64, Oct. 23, 1997, 111 Stat. 1343.

§4027. Biennial report to President

(a) In general

The Administrator shall biennially submit a report of operations under this chapter to the President for submission to the Congress.

(b) Effects of flood insurance program

The Administrator shall include, as part of the biennial report submitted under subsection (a) of this section, 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.

(Pub. L. 90–448, title XIII, §1320, Aug. 1, 1968, 82 Stat. 581; Pub. L. 96–470, title II, §205(b), Oct. 19, 1980, 94 Stat. 2244; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §581, Sept. 23, 1994, 108 Stat. 2286; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Riegle Community Development and Regulatory Improvement Act of 1994, referred to in subsec. (b), is Pub. L. 103–325, Sept. 23, 1994, 108 Stat. 2160. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of Title 12, Banks and Banking, and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” in subsections (a) and (b).

1994—Pub. L. 103–325 designated existing provisions as subsection (a), inserted heading, and added subsection (b).

1983—Pub. L. 98–181 substituted “Director” for “Secretary”.

1980—Pub. L. 96–470 substituted “biennially submit” for “include” and struck out “in the annual report” after “under this chapter” and “required by section 3536 of this title” after “the Congress”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4027a. Report of the Administrator on activities under the National Flood Insurance Program

(1) In general

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

(2) Timing

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

(3) Contents

Each report required under paragraph (1) shall include—

- (A) the current financial condition and income statement of the National Flood Insurance Fund established under section 4017 of this title, including—
 - (i) premiums paid into such Fund;
 - (ii) policy claims against such Fund; and
 - (iii) expenses in administering such Fund;
- (B) the number and face value of all policies issued under the National Flood Insurance Program that are in force;
- (C) a description and summary of the losses attributable to repetitive loss structures;
- (D) a description and summary of all losses incurred by the National Flood Insurance Program due to—
 - (i) hurricane related damage; and
 - (ii) nonhurricane related damage;
- (E) the amounts made available by the Administrator for mitigation assistance under section 4104c(c)(4) of this title, as so redesignated by this Act, for the purchase of properties substantially damaged by flood for that fiscal year, and the actual number of flood damaged properties purchased and the total cost expended to purchase such properties;
- (F) the estimate of the Administrator as to the average historical loss year, and the basis for that estimate;
- (G) the estimate of the Administrator as to the maximum amount of claims that the National Flood Insurance Program would have to expend in the event of a catastrophic year;
- (H) the average—
 - (i) amount of insurance carried per flood insurance policy;
 - (ii) premium per flood insurance policy; and
 - (iii) loss per flood insurance policy; and
- (I) the number of claims involving damages in excess of the maximum amount of flood insurance available under the National Flood Insurance Program and the sum of the amount of all damages in excess of such amount.

(Pub. L. 112–141, div. F, title II, §100231(b), July 6, 2012, 126 Stat. 950.)

REFERENCES IN TEXT

This Act, referred to in par. (3)(E), is Pub. L. 112–141, July 6, 2012, 126 Stat. 405, known as the Moving Ahead for Progress in the 21st Century Act and also as the MAP–21. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 101 of Title 23, Highways, and Tables.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

§4027b. Assessment of claims-paying ability

(1) Assessment

(A) Assessment required

(i) In general

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

(ii) Private market reinsurance

The assessment under this paragraph for any year in which the Administrator exercises the authority under section 4055(a)(2) of this title, as added by this section,¹ to secure reinsurance of coverage provided by the National Flood Insurance Program from the private market shall include information relating the use of private

sector reinsurance and reinsurance equivalents by the Administrator, whether or not the Administrator used the borrowing authority under section 4016 of this title.

(iii) First assessment

The Administrator shall conduct the first assessment required under this paragraph not later than September 30, 2012.

(B) Considerations

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

(2) Annual report of the Administrator of activities under the National Flood Insurance Program

The Administrator shall—

(A) include the results of each assessment in the report required under section 4027a of this title; and

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

(Pub. L. 112–141, div. F, title II, §100232(e), July 6, 2012, 126 Stat. 955.)

REFERENCES IN TEXT

This section, referred to in par. (1)(A)(ii), means section 100232 of Pub. L. 112–141, which enacted this section and amended sections 4051, 4052, 4055, 4082, and 4121 of this title.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

¹ *See References in Text note below.*

§4028. John H. Chafee Coastal Barrier Resources System

(a) No new flood insurance coverage may be provided under this chapter on or after October 1, 1983, for any new construction or substantial improvements of structures located on any coastal barrier within the John H. Chafee Coastal Barrier Resources System established by section 3503 of title 16. A federally insured financial institution may make loans secured by structures which are not eligible for flood insurance by reason of this section.

(b) No new flood insurance coverage may be provided under this chapter after the expiration of the 1-year period beginning on November 16, 1990, for any new construction or substantial improvements of structures located in any area identified and depicted on the maps referred to in section 3503(a) of title 16 as an area that is (1) not within the John H. Chafee Coastal Barrier Resources System and (2) is in an otherwise protected area. Notwithstanding the preceding sentence, new flood insurance coverage may be provided for structures in such protected areas that are used in a manner consistent with the purpose for which the area is protected.

(Pub. L. 90–448, title XIII, §1321, as added Pub. L. 97–35, title III, §341(d)(1), Aug. 13, 1981, 95 Stat. 419; amended Pub. L. 97–348, §11(a), Oct. 18, 1982, 96 Stat. 1658; Pub. L. 101–591, §9, Nov. 16, 1990, 104 Stat. 2938; Pub. L. 106–167, §3(c)(7), Dec. 9, 1999, 113 Stat. 1804.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1999—Pub. L. 106–167 amended section catchline and substituted “John H. Chafee Coastal Barrier Resources System” for “Coastal Barrier Resources System” in subsecs. (a) and (b).

1990—Pub. L. 101–591 designated existing provisions as subsec. (a) and added subsec. (b).

1982—Subsecs. (a) to (c). Pub. L. 97–348 struck out subsec. designations in subsecs. (a) and (c), in provisions of former subsec. (a) substituted “on any coastal barrier within the Coastal Barrier Resources System established by section 3503 of title 16” for “on undeveloped coastal barriers which shall be designated by the Secretary of the Interior”, and struck out subsec. (b) which provided definitions for purposes of this section.

EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as a note under section 3701 of Title 12, Banks and Banking.

STUDY FOR DESIGNATION OF UNDEVELOPED COASTAL BARRIERS; REPORT AND RECOMMENDATIONS TO CONGRESS

Pub. L. 97–35, title III, §341(d)(2), Aug. 13, 1981, 95 Stat. 419, relating to a study by the Secretary of the Interior for the purpose of designating the undeveloped coastal barriers affected by this section, and transmittal to Congress of a report on such study, was repealed by Pub. L. 97–348, §11(b), Oct. 18, 1982, 96 Stat. 1659.

§4029. Colorado River Floodway

(a) Renewal and transfer of policies; acquisition of policies after filing of maps

Owners of existing National Flood Insurance Act policies with respect to structures located within the Floodway established under section 1600c of title 43 shall have the right to renew and transfer such policies. Owners of existing structures located within said Floodway on October 8, 1986, who have not acquired National Flood Insurance Act policies shall have the right to acquire policies with respect to such structures for six months after the Secretary of the Interior files the Floodway maps required by section 1600c(b)(2)¹ of title 43 and to renew and transfer such policies.

(b) New coverage for new construction or substantial improvements

No new flood insurance coverage may be provided under this chapter on or after a date six months after October 8, 1986, for any new construction or substantial improvements of structures located within the Colorado River Floodway established by section 1600c of title 43. New construction includes all structures that are not insurable prior to that date.

(c) Establishment of temporary boundaries

The Secretary of the Interior may by rule after notice and comment pursuant to section 553 of title 5 establish temporary Floodway boundaries to be in effect until the maps required by section 1600c(b)(2)¹ of title 43 are filed, for the purpose of enforcing subsections (b) and (d) of this section.

(d) Loans by federally supervised, approved, regulated, or insured financial institutions

A regulated lending institution or Federal agency lender may make loans secured by structures which are not eligible for flood insurance by reason of this section: *Provided*, That prior to making such a loan, such institution determines that the loans or structures securing the loan are within the Floodway.

(Pub. L. 90–448, title XIII, §1322, as added Pub. L. 99–450, §12, Oct. 8, 1986, 100 Stat. 1135; amended Pub. L. 100–242, title V, §545(e), Feb. 5, 1988, 101 Stat. 1942; Pub. L. 103–325, title V, §512(b), Sept. 23, 1994, 108 Stat. 2257.)

REFERENCES IN TEXT

The National Flood Insurance Act, referred to in subsec. (a), probably means the National Flood Insurance Act of 1968, title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to this chapter (§4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 1600c(b)(2) of title 43, referred to in subsecs. (a) and (c), was struck out and former subsec. (b)(1)(ii) redesignated (b)(2) of section 1600c by Pub. L. 105–362, title IX, §901(d)(1), Nov. 10, 1998, 112

Stat. 3289. As amended, section 1600c(b)(2) no longer relates to maps required to be prepared and filed by the Secretary.

This chapter, referred to in subsec. (b), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–325 substituted “regulated lending institution or Federal agency lender” for “federally supervised, approved, regulated or insured financial institution”.

1988—Pub. L. 100–242 inserted section catchline.

¹ *See References in Text note below.*

§4030. Repealed. Pub. L. 112–141, div. F, title II, §100225(b), July 6, 2012, 126 Stat. 941

Section, Pub. L. 90–448, title XIII, §1323, as added Pub. L. 108–264, title I, §104(a), June 30, 2004, 118 Stat. 722, provided funding for mitigation actions that reduce flood damages to individual properties for which 1 or more claim payments for losses have been made under flood insurance coverage under this chapter.

§4031. Treatment of certain payments

Assistance provided under a program under this chapter for flood mitigation activities (including any assistance provided under the mitigation pilot program under section 4102a¹ of this title, any assistance provided under the mitigation assistance program under section 4104c of this title, and any funding provided under section 4030¹ of this title) with respect to a property shall not be considered income or a resource of the owner of the property when determining eligibility for or benefit levels under any income assistance or resource-tested program that is funded in whole or in part by an agency of the United States or by appropriated funds of the United States.

(Pub. L. 90–448, title XIII, §1324, as added Pub. L. 109–64, §1, Sept. 20, 2005, 119 Stat. 1997.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

Section 4102a of this title, referred to in text, was repealed by Pub. L. 112–141, div. F, title II, §100225(c), July 6, 2012, 126 Stat. 941.

Section 4030 of this title, referred to in text, was repealed by Pub. L. 112–141, div. F, title II, §100225(b), July 6, 2012, 126 Stat. 941.

¹ *See References in Text note below.*

§4032. Treatment of swimming pool enclosures outside of hurricane season

(a) In general

Notwithstanding any other provision of law, including the adequate land use and control measures developed pursuant to section 4102 of this title and applicable to non-one- and two-family structures located within coastal areas, as identified by the Administrator, the following may be permitted:

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

(2) Openings in walls in the space below the lowest elevated floor of a building, if the space is used solely for a

swimming pool between November 30 and June 1 of any year, in an area designated as Zone A on a flood insurance rate map.

(b) Rule of construction

Nothing in subsection (a) shall be construed to alter the terms and conditions of eligibility and insurability of coverage for a building under the standard flood insurance policy under the national flood insurance program. (Pub. L. 90–448, title XIII, §1325, as added Pub. L. 112–141, div. F, title II, §100242, July 6, 2012, 126 Stat. 962.)

§4033. Designation of Flood Insurance Advocate

(a) In general

The Administrator shall designate a Flood Insurance Advocate to advocate for the fair treatment of policy holders under the National Flood Insurance Program and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood.

(b) Duties and responsibilities

The duties and responsibilities of the Flood Insurance Advocate designated under subsection (a) shall be to—

- (1) educate property owners and policyholders under the National Flood Insurance Program on—
 - (A) individual flood risks;
 - (B) flood mitigation;
 - (C) measures to reduce flood insurance rates through effective mitigation;
 - (D) the flood insurance rate map review and amendment process; and
 - (E) any changes in the flood insurance program as a result of any newly enacted laws (including this Act);

(2) assist policy holders under the National Flood Insurance Program and property owners to understand the procedural requirements related to appealing preliminary flood insurance rate maps and implementing measures to mitigate evolving flood risks;

(3) assist in the development of regional capacity to respond to individual constituent concerns about flood insurance rate map amendments and revisions;

(4) coordinate outreach and education with local officials and community leaders in areas impacted by proposed flood insurance rate map amendments and revisions; and

(5) aid potential policy holders under the National Flood Insurance Program in obtaining and verifying accurate and reliable flood insurance rate information when purchasing or renewing a flood insurance policy.

(Pub. L. 113–89, §24, Mar. 21, 2014, 128 Stat. 1030.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1)(E), is Pub. L. 113–89, Mar. 21, 2014, 128 Stat. 1020, known as the Homeowner Flood Insurance Affordability Act of 2014. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Homeowner Flood Insurance Affordability Act of 2014, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 4005 of this title.

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATION OF FLOOD INSURANCE PROGRAM

§4041. Implementation of program

Following such consultation with representatives of the insurance industry as may be necessary, the Administrator shall implement the flood insurance program authorized under subchapter I of this chapter in accordance with the provisions of part A of this subchapter and, if a determination is made by him under section 4071 of this title, under part B of this subchapter.

(Pub. L. 90–448, title XIII, §1330, Aug. 1, 1968, 82 Stat. 581; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director”.

1983—Pub. L. 98–181 substituted “Director” for “Secretary”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PART A—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE

§4051. Industry flood insurance pool; requirements for participation

(a) The Administrator is authorized to encourage and otherwise assist any insurance companies and other insurers which meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

(1) in order to provide the flood insurance coverage authorized under subchapter I of this chapter; and

(2) for the purpose of assuming, including as reinsurance of coverage provided by the flood insurance program, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers, with the Federal financial and other assistance available under this chapter, to assume a reasonable proportion of responsibility for the adjustment and payment of claims for losses under the flood insurance program.

(b) In order to promote the effective administration of the flood insurance program under this part, and to assure that the objectives of this chapter are furthered, the Administrator is authorized to prescribe appropriate requirements for insurance companies and other insurers participating in such pool including, but not limited to, minimum requirements for capital or surplus or assets.

(Pub. L. 90–448, title XIII, §1331, Aug. 1, 1968, 82 Stat. 582; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100232(d)(1), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (b), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

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

Subsec. (a)(2). Pub. L. 112–141, §100232(d)(1), inserted “, including as reinsurance of coverage provided by the flood insurance program” before “, on such terms”.

Subsec. (b). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

1983—Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4052. Agreements with flood insurance pool

(a) Authorization

The Administrator is authorized to enter into such agreements with the pool formed or otherwise created under this part as he deems necessary to carry out the purposes of this chapter.

(b) Terms and conditions

Such agreements shall specify—

- (1) the terms and conditions under which risk capital will be available for the adjustment and payment of claims,
- (2) the terms and conditions under which the pool (and the companies and other insurers participating therein) shall participate in premiums received and profits or losses realized or sustained,
- (3) the maximum amount of profit, established by the Administrator and set forth in the schedules prescribed under section 4018 of this title, which may be realized by such pool (and the companies and other insurers participating therein),
- (4) the terms and conditions under which operating costs and allowances set forth in the schedules prescribed under section 4018 of this title may be paid, and
- (5) the terms and conditions under which premium equalization payments under section 4054 of this title will be made and reinsurance claims under section 4055 of this title will be paid.

(c) Additional provisions

In addition, such agreements shall contain such provisions as the Administrator finds necessary to assure that—

- (1) no insurance company or other insurer which meets the requirements prescribed under section 4051(b) of this title, and which has indicated an intention to participate in the flood insurance program on a risk-sharing basis, will be excluded from participating in the pool,
- (2) the insurance companies and other insurers participating in the pool will take whatever action may be necessary to provide continuity of flood insurance coverage or reinsurance by the pool, and
- (3) any insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations will be permitted to cooperate with the pool as fiscal agents or otherwise, on other than a risk-sharing basis, to the maximum extent practicable.

(Pub. L. 90–448, title XIII, §1332, Aug. 1, 1968, 82 Stat. 582; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100232(d)(2), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a), (b)(3), (c). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

Subsec. (c)(2). Pub. L. 112–141, §100232(d)(2), inserted “or reinsurance” after “flood insurance coverage”.

1983—Subsecs. (a), (b)(3), (c). Pub. L. 98–181 substituted “Director” for “Secretary”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4053. Adjustment and payment of claims; judicial review; limitations; jurisdiction

The insurance companies and other insurers which form, associate, or otherwise join together in the pool under this part may adjust and pay all claims for proved and approved losses covered by flood insurance in accordance with the provisions of this chapter and, upon the disallowance by any such company or other insurer of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against such company or other insurer in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and original exclusive jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy. (Pub. L. 90–448, title XIII, §1333, Aug. 1, 1968, 82 Stat. 583; Pub. L. 98–181, title I [title IV, §451(d)(3)], Nov. 30, 1983, 97 Stat. 1229.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1983—Pub. L. 98–181 inserted “original exclusive” before “jurisdiction”.

§4054. Premium equalization payments; basis; aggregate amount; establishment of designated periods

(a) The Administrator, on such terms and conditions as he may from time to time prescribe, shall make periodic payments to the pool formed or otherwise created under section 4051 of this title, in recognition of such reductions in chargeable premium rates under section 4015 of this title below estimated premium rates under section 4014(a)(1) of this title as are required in order to make flood insurance available on reasonable terms and conditions.

(b) Designated periods under this section and the methods for determining the sum of premiums paid or payable during such periods shall be established by the Administrator.

(Pub. L. 90–448, title XIII, §1334, Aug. 1, 1968, 82 Stat. 583; Pub. L. 93–234, title I, §111, Dec. 31, 1973, 87 Stat. 981; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” in subsecs. (a) and (b).

1983—Pub. L. 98–181 substituted “Director” for “Secretary” in subsecs. (a) and (b).

1973—Subsecs. (b), (c). Pub. L. 93–234 redesignated subsec. (c) as (b) and struck out former

subsec. (b) prescribing formula for sharing losses between Government and industry and permit necessary flexibility in loss sharing to take into account longer-term loss experience trends and to compensate for lack of precision in actuarial computations.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4055. Reinsurance coverage

(a) Availability for excess losses

(1) In general

The Administrator is authorized to take such action as may be necessary in order to make available, to the pool formed or otherwise created under section 4051 of this title, reinsurance for losses (due to claims for proved and approved losses covered by flood insurance) which are in excess of losses assumed by such pool in accordance with the excess loss agreement entered into under subsection (c) of this section.

(2) Private reinsurance

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

(b) Availability pursuant to contract, agreement, or other arrangement; payment of premium, fee, or other charge

Such reinsurance shall be made available pursuant to contract, agreement, or any other arrangement, in consideration of such payment of a premium, fee, or other charge as the Administrator finds necessary to cover anticipated losses and other costs of providing such reinsurance.

(c) Excess loss agreement; negotiation

The Administrator is authorized to negotiate an excess loss agreement, from time to time, under which the amount of flood insurance retained by the pool, after ceding reinsurance, shall be adequate to further the purposes of this chapter, consistent with the objective of maintaining appropriate financial participation and risk sharing to the maximum extent practicable on the part of participating insurance companies and other insurers.

(d) Submission of excess losses on portfolio basis

All reinsurance claims for losses in excess of losses assumed by the pool shall be submitted on a portfolio basis by such pool in accordance with terms and conditions established by the Administrator.

(Pub. L. 90–448, title XIII, §1335, Aug. 1, 1968, 82 Stat. 583; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100232(d)(3), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141, §100232(d)(3), designated existing provisions as par. (1),

inserted heading, substituted “The Administrator” for “The Director” and added par. (2).

Subsecs. (b) to (d). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

1983—Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4056. Emergency implementation of flood insurance program; applicability of other provisions of law

(a) Notwithstanding any other provisions of this chapter, for the purpose of providing flood insurance coverage at the earliest possible time, the Administrator shall carry out the flood insurance program authorized under subchapter I of this chapter during the period ending on the date specified in section 4026 of this title, in accordance with the provisions of this part and the other provisions of this chapter insofar as they relate to this part but subject to the modifications made by or under subsection (b) of this section.

(b) In carrying out the flood insurance program pursuant to subsection (a) of this section, the Administrator—

(1) shall provide insurance coverage without regard to any estimated risk premium rates which would otherwise be determined under section 4014 of this title; and

(2) shall utilize the provisions and procedures contained in or prescribed by this part (other than section 4054 of this title) and sections 4081 and 4082 of this title to such extent and in such manner as he may consider necessary or appropriate to carry out the purpose of this section.

(Pub. L. 90–448, title XIII, §1336, as added Pub. L. 91–152, title IV, §408, Dec. 24, 1969, 83 Stat. 396; amended Pub. L. 92–213, §2(a), Dec. 22, 1971, 85 Stat. 775; Pub. L. 93–234, title I, §106, Dec. 31, 1973, 87 Stat. 979; Pub. L. 94–173, §5, Dec. 23, 1975, 89 Stat. 1028; Pub. L. 94–375, §14(b), Aug. 3, 1976, 90 Stat. 1075; Pub. L. 95–128, title VII, §701(b), Oct. 12, 1977, 91 Stat. 1144; Pub. L. 95–406, §6(b), Sept. 30, 1978, 92 Stat. 880; Pub. L. 95–557, title III, §308(b), Oct. 31, 1978, 92 Stat. 2098; Pub. L. 96–153, title VI, §602(b), Dec. 21, 1979, 93 Stat. 1137; Pub. L. 97–35, title III, §341(b)(2), Aug. 13, 1981, 95 Stat. 419; Pub. L. 97–289, §4(b), Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98–35, §4(b), May 26, 1983, 97 Stat. 198; Pub. L. 98–109, §5(b), Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–181, title I [title IV, §451(b), (d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 99–120, §4(a)(2), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §4(a)(2), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §4(a)(2), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §4(a)(2), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3010(a)(2), Apr. 7, 1986, 100 Stat. 106; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title V, §541(b), Feb. 5, 1988, 101 Stat. 1939; Pub. L. 101–137, §1(b), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101–508, title II, §2302(b), Nov. 5, 1990, 104 Stat. 1388–23; Pub. L. 103–325, title V, §571(b), Sept. 23, 1994, 108 Stat. 2277; Pub. L. 105–46, §118, Sept. 30, 1997, 111 Stat. 1157; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1377; Pub. L. 105–276, title III, title V, §599D(b), Oct. 21, 1998, 112 Stat. 2502, 2663; Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 689; Pub. L. 108–3, §2(a)(3), Jan. 13, 2003, 117 Stat. 7; Pub. L. 108–171, §2(a)(3), Dec. 6, 2003, 117 Stat. 2064; Pub. L. 108–199, div. H, §136(a)(3), Jan. 23, 2004, 118 Stat. 442; Pub. L. 108–264, title I, §101(c), June 30, 2004, 118 Stat. 714; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” in subsecs. (a) and (b).

2004—Subsec. (a). Pub. L. 108–264 substituted “during the period ending on the date specified in section 4026 of this title, in accordance” for identical language.

Pub. L. 108–199 made amendment identical to that made by Pub. L. 108–171. See 2003 Amendment note below.

2003—Subsec. (a). Pub. L. 108–171 substituted “on the date specified in section 4026 of this title” for “December 31, 2003”.

Pub. L. 108–3 substituted “ending December 31, 2003, in” for “ending December 31, 2002, in”.

2001—Subsec. (a). Pub. L. 107–73 substituted “December 31, 2002” for “September 30, 2001”.

1998—Subsec. (a). Pub. L. 105–276, §599D(b), which directed the substitution of “2001” for “1998”, was executed by substituting “2001” for “1999” to reflect the probable intent of Congress and the amendment by Pub. L. 105–276, title III, see below.

Pub. L. 105–276, title III, substituted “1999” for “1998”.

1997—Subsec. (a). Pub. L. 105–65 substituted “September 30, 1998” for “October 23, 1997”.

Pub. L. 105–46 substituted “October 23, 1997” for “September 30, 1996”.

1994—Subsec. (a). Pub. L. 103–325 substituted “September 30, 1996” for “September 30, 1995”.

1990—Subsec. (a). Pub. L. 101–508 substituted “September 30, 1995” for “September 30, 1991”.

1989—Subsec. (a). Pub. L. 101–137 substituted “September 30, 1991” for “September 30, 1989”.

1988—Subsec. (a). Pub. L. 100–242 substituted “September 30, 1989” for “March 15, 1988”.

1987—Subsec. (a). Pub. L. 100–200 substituted “March 15, 1988” for “December 16, 1987”.

Pub. L. 100–179 substituted “December 16, 1987” for “December 2, 1987”.

Pub. L. 100–170 substituted “December 2, 1987” for “November 15, 1987”.

Pub. L. 100–154 substituted “November 15, 1987” for “October 31, 1987”.

Pub. L. 100–122 substituted “October 31, 1987” for “September 30, 1987”.

1986—Subsec. (a). Pub. L. 99–430 substituted “September 30, 1987” for “September 30, 1986”.

Pub. L. 99–345 substituted “September 30, 1986” for “June 6, 1986”.

Pub. L. 99–289 substituted “June 6, 1986” for “April 30, 1986”.

Pub. L. 99–272 directed amendment identical to Pub. L. 99–219 substituting “March 17, 1986” for “December 15, 1985”.

Pub. L. 99–267 substituted “April 30, 1986” for “March 17, 1986”.

1985—Subsec. (a). Pub. L. 99–219 substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99–156 substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99–120 substituted “November 14, 1985” for “September 30, 1985”.

1983—Subsec. (a). Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary”.

Pub. L. 98–181, §451(b), substituted “September 30, 1985” for “November 30, 1983”.

Pub. L. 98–109 substituted “November 30, 1983” for “September 30, 1983”.

Pub. L. 98–35 substituted “September 30, 1983” for “May 20, 1983”.

Subsec. (b). Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary”.

1982—Subsec. (a). Pub. L. 97–289 substituted “May 20, 1983” for “September 30, 1982”.

1981—Subsec. (a). Pub. L. 97–35 substituted “1982” for “1981”.

1979—Subsec. (a). Pub. L. 96–153 substituted “1981” for “1980”.

1978—Subsec. (a). Pub. L. 95–557 substituted “September 30, 1980” for “October 31, 1978”.

Pub. L. 95–406 substituted “October 31, 1978” for “September 30, 1978”.

1977—Subsec. (a). Pub. L. 95–128 substituted “1978” for “1977”.

1976—Subsec. (a). Pub. L. 94–375 substituted “September 30, 1977” for “December 31, 1976”.

1975—Subsec. (a). Pub. L. 94–173 substituted “1976” for “1975”.

1973—Subsec. (a). Pub. L. 93–234 substituted “1975” for “1973”.

1971—Subsec. (a). Pub. L. 92–213 substituted “1973” for “1971”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–199 considered to have taken effect on Dec. 31, 2003, see section 136(b) of div. H of Pub. L. 108–199, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–171 effective Dec. 31, 2003, see section 2(b) of Pub. L. 108–171, set out as a note under section 4016 of this title.

Amendment by Pub. L. 108–3 effective Dec. 31, 2002, see section 2(b) of Pub. L. 108–3, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

The expiration date of Oct. 23, 1997 (see 1997 Amendment note above) was temporarily extended to Nov. 7, 1997, by Pub. L. 105–64, Oct. 23, 1997, 111 Stat. 1343.

§4057. Alternative loss allocation system for indeterminate claims

(a) Definitions

In this section:

(1) Administrator

The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) COASTAL Formula

The term “COASTAL Formula” means the formula established under subsection (b).

(3) Coastal State

The term “coastal State” has the meaning given the term “coastal state” in section 1453 of title 16.

(4) Indeterminate loss

(A) In general

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

(B) Requirements

An insurance claims adjuster certified under the national flood insurance program shall only determine that a loss is an indeterminate loss if the claims adjuster determines that—

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

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

(5) Named storm

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

(6) Post-storm assessment

The term “post-storm assessment” means the post-storm assessment developed under section 3611(b) of title 33.

(7) State

The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(8) Secretary

The term “Secretary” means the Secretary of Homeland Security.

(9) Standard insurance policy

The term “standard insurance policy” means any insurance policy issued under the national flood insurance program that covers loss or damage to property resulting from water peril.

(10) Property

The term “property” means real or personal property that is insured under a standard insurance policy for loss or damage to structure or contents.

(11) Under Secretary

The term “Under Secretary” means the Under Secretary of Commerce for Oceans and Atmosphere, in the Under Secretary’s capacity as Administrator of the National Oceanic and Atmospheric Administration.

(b) Establishment of flood loss allocation formula for indeterminate claims

(1) In general

Not later than 180 days after the date on which the protocol is established under section 3611(c)(1) of title 33, the Secretary, acting through the Administrator and in consultation with the Under Secretary, shall establish by rule a standard formula to determine and allocate wind losses and flood losses for claims involving indeterminate losses.

(2) Contents

The standard formula established under paragraph (1) shall—

(A) incorporate data available from the Coastal Wind and Water Event Database established under section 3611(f) of title 33;

(B) use relevant data provided on the National Flood Insurance Program Elevation Certificate for each indeterminate loss for which the formula is used;

(C) consider any sufficient and credible evidence, approved by the Administrator, of the pre-event condition of a specific property, including the findings of any policyholder or insurance claims adjuster in connection with the indeterminate loss to that specific property;

(D) include other measures, as the Administrator considers appropriate, required to determine and allocate by mathematical formula the property damage caused by flood or storm surge associated with a named storm; and

(E) subject to paragraph (3), for each indeterminate loss, use the post-storm assessment to allocate water damage (flood or storm surge) associated with a named storm.

(3) Degree of accuracy required

The standard formula established under paragraph (1) shall specify that the Administrator may only use the post-storm assessment for purposes of the formula if the Under Secretary certifies that the post-storm assessment has a degree of accuracy of not less than 90 percent in connection with the specific indeterminate loss for which the assessment and formula are used.

(c) Authorized use of post-storm assessment and COASTAL Formula

(1) In general

Subject to paragraph (3), the Administrator may use the post-storm assessment and the COASTAL Formula to—

(A) review flood loss payments for indeterminate losses, including as part of the quality assurance reinspection program of the Federal Emergency Management Agency for claims under the national flood insurance program and any other process approved by the Administrator to review and validate payments under the national flood insurance program for indeterminate losses following a named storm; and

(B) assist the national flood insurance program to—

(i) properly cover qualified flood loss for claims for indeterminate losses; and

(ii) avoid paying for any loss or damage to property caused by any peril (including wind), other than flood

or storm surge, that is not covered under a standard policy under the national flood insurance program.

(2) Federal disaster declaration

Subject to paragraph (3), in order to expedite claims and reduce costs to the national flood insurance program, following any major disaster declared by the President under section 5170 of this title relating to a named storm in a coastal State, the Administrator may use the COASTAL Formula to determine and pay for any flood loss covered under a standard insurance policy under the national flood insurance program, if the loss is an indeterminate loss.

(3) National Academy of Sciences evaluation

(A) Evaluation required

(i) Evaluation

Upon the issuance of the rule establishing the COASTAL Formula, and each time the Administrator modifies the COASTAL Formula, the National Academy of Sciences shall—

(I) evaluate the expected financial impact on the national flood insurance program of the use of the COASTAL Formula as so established or modified; and

(II) evaluate the validity of the scientific assumptions upon which the formula is based and determine whether the COASTAL formula¹ can achieve a degree of accuracy of not less than 90 percent in allocating flood losses for indeterminate losses.

(ii) Report

The National Academy of Sciences shall submit a report containing the results of each evaluation under clause (i) to the Administrator, the Committee on Banking, Housing, and Urban Affairs and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Financial Services and the Committee on Science, Space, and Technology of the House of Representatives.

(B) Effective date and applicability

(i) Effective date

Paragraphs (1) and (2) of this subsection shall not take effect unless the report under subparagraph (A) relating to the establishment of the COASTAL Formula concludes that the use of the COASTAL Formula for purposes of paragraph² (1) and (2) would not have an adverse financial impact on the national flood insurance program and that the COASTAL Formula is based on valid scientific assumptions that would allow a degree of accuracy of not less than 90 percent to be achieved in allocating flood losses for indeterminate losses.

(ii) Effect of modifications

Unless the report under subparagraph (A) relating to a modification of the COASTAL Formula concludes that the use of the COASTAL Formula, as so modified, for purposes of paragraphs (1) and (2) would not have an adverse financial impact on the national flood insurance program and that the COASTAL Formula is based on valid scientific assumptions that would allow a degree of accuracy of not less than 90 percent to be achieved in allocating flood losses for indeterminate losses the Administrator may not use the COASTAL Formula, as so modified, for purposes of paragraphs (1) and (2).

(C) Funding

Notwithstanding section 4017 of this title, there shall be available to the Administrator from the National Flood Insurance Fund, of amounts not otherwise obligated, not more than \$750,000 to carry out this paragraph.

(d) Disclosure of COASTAL Formula

Not later than 30 days after the date on which a post-storm assessment is submitted to the Secretary under section 3611(b)(2)(C) of title 33, for each indeterminate loss for which the COASTAL Formula is used pursuant to subsection (c)(2), the Administrator shall disclose to the policyholder that makes a claim relating to the indeterminate loss—

(1) that the Administrator used the COASTAL Formula with respect to the indeterminate loss; and

(2) a summary of the results of the use of the COASTAL Formula.

(e) Consultation

In carrying out subsections (b) and (c), the Secretary shall consult with—

(1) the Under Secretary for Oceans and Atmosphere;

(2) the Director of the National Institute of Standards and Technology;

- (3) the Chief of Engineers of the Corps of Engineers;
- (4) the Director of the United States Geological Survey;
- (5) the Office of the Federal Coordinator for Meteorology;
- (6) State insurance regulators of coastal States; and
- (7) such public, private, and academic sector entities as the Secretary considers appropriate for purposes of carrying out such subsections.

(f) Recordkeeping

Each consideration and measure the Administrator determines necessary to carry out subsection (b) may be required, with advanced approval of the Administrator, to be provided for on the National Flood Insurance Program Elevation Certificate, or maintained otherwise on record if approved by the Administrator, for any property that qualifies for the COASTAL Formula under subsection (c).

(g) Civil penalty

(1) In general

If an insurance claims adjuster knowingly and willfully makes a false or inaccurate determination relating to an indeterminate loss, the Administrator may, after notice and opportunity for hearing, impose on the insurance claims adjuster a civil penalty of not more than \$1,000.

(2) Deposit

Notwithstanding section 3302 of title 31 or any other law relating to the crediting of money, the Administrator shall deposit in the National Flood Insurance Fund any amounts received under this subsection, which shall remain available until expended and be available to the Administrator for purposes authorized for the National Flood Insurance Fund without further appropriation.

(h) Rule of construction

Nothing in this subsection³ shall be construed to require the Administrator to make any payment under the national flood insurance program, or an insurance company to make any payment, for an indeterminate loss based upon post-storm assessment or the COASTAL Formula.

(i) Applicability

Subsection (c) shall apply with respect to an indeterminate loss associated with a named storm that occurs after the date on which the Administrator issues the rule establishing the COASTAL Formula under subsection (b).

(j) Rule of Construction

Nothing in this subsection³ shall be construed to negate, set aside, or void any policy limit, including any loss limitation, set forth in a standard insurance policy.

(Pub. L. 90–448, title XIII, §1337, as added Pub. L. 112–141, div. F, title II, §100253, July 6, 2012, 126 Stat. 974.)

¹ So in original. Probably should be capitalized.

² So in original. Probably should be “paragraphs”.

³ So in original. Probably should be “this section”.

PART B—GOVERNMENT PROGRAM WITH INDUSTRY ASSISTANCE

§4071. Federal operation of program; determination by Administrator; fiscal agents; report to Congress

(a) If at any time, after consultation with representatives of the insurance industry, the Administrator determines that operation of the flood insurance program as provided under part A cannot be carried out, or that such operation, in itself, would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for flood insurance under this chapter (on a temporary or other basis) he shall promptly undertake any necessary arrangements to carry out the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, utilizing, for purposes of providing flood insurance

coverage, either—

- (1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,
- (2) such other officers and employees of any executive agency (as defined in section 105 of title 5) as the Administrator and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis, or
- (3) both the alternatives specified in paragraphs (1) and (2).

(b) Upon making the determination referred to in subsection (a) of this section, the Administrator shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 4017 of this title. Such report shall—

- (1) state the reason for such determinations,
- (2) be supported by pertinent findings,
- (3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and
- (4) contain such recommendations as the Administrator deems advisable.

The Administrator shall not implement the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government until 9 months after the date of submission of the report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.

(Pub. L. 90–448, title XIII, §1340, Aug. 1, 1968, 82 Stat. 584; Pub. L. 98–181, title I [title IV, §451(d)(1), (4)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101–137, §3, Nov. 3, 1989, 103 Stat. 824; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” wherever appearing in text.

1989—Subsec. (b). Pub. L. 101–137 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Upon making the determination referred to in subsection (a) of this section, and at least thirty days prior to implementing the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, the Director shall make a report to the Congress and such report shall—

- “(1) state the reasons for such determination,
- “(2) be supported by pertinent findings,
- “(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and
- “(4) contain such recommendations as the Director deems advisable.”

1983—Subsec. (a). Pub. L. 98–181, §451(d)(1), in provisions preceding par. (1), substituted “Director” for “Secretary”.

Subsec. (a)(2). Pub. L. 98–181, §451(d)(4), struck out “officers and employees of the Department of Housing and Urban Development, and” before “such other officers”.

Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary”.

Subsec. (b). Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary” wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency

relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4072. Adjustment and payment of claims; judicial review; limitations; jurisdiction

In the event the program is carried out as provided in section 4071 of this title, the Administrator shall be authorized to adjust and make payment of any claims for proved and approved losses covered by flood insurance, and upon the disallowance by the Administrator of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance by the Administrator, may institute an action against the Administrator on such claim in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and original exclusive jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in the controversy.

(Pub. L. 90–448, title XIII, §1341, Aug. 1, 1968, 82 Stat. 584; Pub. L. 98–181, title I [title IV, §451(d)(1), (5)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” wherever appearing.

1983—Pub. L. 98–181, §451(d)(5), inserted “original exclusive” before “jurisdiction”.

Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary” wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

PART C—GENERAL PROVISIONS

§4081. Services by insurance industry

(a) Contracting for services and facilities

In administering the flood insurance program under this subchapter, the Administrator is authorized to enter into any contracts, agreements, or other appropriate arrangements which may, from time to time, be necessary for the purpose of utilizing, on such terms and conditions as may be agreed upon, the facilities and services of any insurance companies or other insurers, insurance agents and brokers, or insurance adjustment organizations; and such contracts, agreements, or arrangements may include provision for payment of applicable operating costs and allowances for such facilities and services as set forth in the schedules prescribed under section 4018 of this title.

(b) Certain laws inapplicable to contracting

Any such contracts, agreements, or other arrangements may be entered into without regard to the provisions of section 6101 of title 41 or any other provision of law requiring competitive bidding and without regard to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(c) Hold harmless

The Administrator of the Federal Emergency Management Agency shall hold any agent or broker selling or undertaking to sell flood insurance under this chapter harmless from any judgment for damages against such agent or broker as a result of any court action by a policyholder or applicant arising out of an error or omission on the part of the Federal Emergency Management Agency, and shall provide any such agent or broker with indemnification, including court costs and reasonable attorney fees, arising out of and caused by an error or omission on the part of the Federal Emergency Management Agency and its contractors. The Administrator of the Federal Emergency Management Agency may not hold harmless or indemnify an agent or broker for his or her error or omission.

(d) FEMA authority on transfer of policies

Notwithstanding any other provision of this chapter, the Administrator may, at the discretion of the Administrator, refuse to accept the transfer of the administration of policies for coverage under the flood insurance program under this chapter that are written and administered by any insurance company or other insurer, or any insurance agent or broker.

(e) Risk transfer

The Administrator may secure reinsurance of coverage provided by the flood insurance program from the private reinsurance and capital markets at rates and on terms determined by the Administrator to be reasonable and appropriate, in an amount sufficient to maintain the ability of the program to pay claims.

(Pub. L. 90–448, title XIII, §1345, Aug. 1, 1968, 82 Stat. 585; Pub. L. 97–35, title III, §341(e), Aug. 13, 1981, 95 Stat. 419; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §574, Sept. 23, 1994, 108 Stat. 2278; Pub. L. 112–141, div. F, title II, §§100238(b)(1), 100245, July 6, 2012, 126 Stat. 958, 966; Pub. L. 113–89, §10, Mar. 21, 2014, 128 Stat. 1025.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This chapter, referred to in subsecs. (c) and (d), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

In subsec. (b), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes (41 U.S.C. 5)” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113–89 added subsec. (e).

2012—Subsecs. (a), (c). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” wherever appearing.

Subsec. (d). Pub. L. 112–141, §100245, added subsec. (d).

1994—Subsec. (b). Pub. L. 103–325 inserted before period at end “and without regard to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)”.

1983—Subsec. (a). Pub. L. 98–181 substituted “Director” for “Secretary”.

1981—Subsec. (c). Pub. L. 97–35 added subsec. (c).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management

Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

OVERSIGHT AND EXPENSE REIMBURSEMENTS OF INSURANCE COMPANIES

Pub. L. 112–141, div. F, title II, §100224, July 6, 2012, 126 Stat. 936, provided that:

“(a) SUBMISSION OF BIENNIAL REPORTS.—

“(1) TO THE ADMINISTRATOR.—Not later than 20 days after the date of enactment of this Act [July 6, 2012], each property and casualty insurance company participating in the Write Your Own program shall submit to the Administrator any biennial report required by the Federal Emergency Management Agency to be prepared in the prior 5 years by such company.

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

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

“(4) FAILURE TO COMPLY.—A property and casualty insurance company participating in the Write Your Own program which fails to comply with the reporting requirement under this subsection or the requirement under section 62.23(j)(1) of title 44, Code of Federal Regulations (relating to biennial audit of the flood insurance financial statements) shall be subject to a civil penalty in an amount of not more than \$1,000 per day for each day that the company remains in noncompliance with either such requirement.

“(b) METHODOLOGY TO DETERMINE REIMBURSED EXPENSES.—Not later than 180 days after the date of enactment of this Act [July 6, 2012], the Administrator shall develop a methodology for determining the appropriate amounts that property and casualty insurance companies participating in the Write Your Own program should be reimbursed for selling, writing, and servicing flood insurance policies and adjusting flood insurance claims on behalf of the National Flood Insurance Program. The methodology shall be developed using actual expense data for the flood insurance line and can be derived from—

“(1) flood insurance expense data produced by the property and casualty insurance companies;

“(2) flood insurance expense data collected by the National Association of Insurance

Commissioners; or

“(3) a combination of the methodologies described in paragraphs (1) and (2).

“(c) SUBMISSION OF EXPENSE REPORTS.—To develop the methodology established under subsection (b), the Administrator may require each property and casualty insurance company participating in the Write Your Own program to submit a report to the Administrator, in a format determined by the Administrator and within 60 days of the request, that details the expense levels of each such company for selling, writing, and servicing standard flood insurance policies and adjusting and servicing claims.

“(d) FEMA RULEMAKING ON REIMBURSEMENT OF EXPENSES UNDER THE WRITE YOUR OWN PROGRAM.—Not later than 12 months after the date of enactment of this Act [July 6, 2012], the Administrator shall issue a rule to formulate revised expense reimbursements to property and casualty insurance companies participating in the Write Your Own program for their expenses (including their operating and administrative expenses for adjustment of claims) in selling, writing, and servicing standard flood insurance policies, including how such companies shall be reimbursed in both catastrophic and noncatastrophic years. Such reimbursements shall be structured to ensure reimbursements track the actual expenses, including standard business costs and operating expenses, of such companies as closely as practicably possible.

“(e) REPORT OF THE ADMINISTRATOR.—Not later than 60 days after the effective date of the final rule issued pursuant to subsection (d), the Administrator shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—

- “(1) the specific rationale and purposes of such rule;
 - “(2) the reasons for the adoption of the policies contained in such rule; and
 - “(3) the degree to which such rule accurately represents the true operating costs and expenses of property and casualty insurance companies participating in the Write Your Own program.
- “(f) GAO STUDY AND REPORT ON EXPENSES OF WRITE YOUR OWN PROGRAM.—
- “(1) STUDY.—Not later than 180 days after the effective date of the final rule issued pursuant to subsection (d), the Comptroller General of the United States shall—
 - “(A) conduct a study on the efficacy, adequacy, and sufficiency of the final rules issued pursuant to subsection (d); and
 - “(B) report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the findings of the study conducted under subparagraph (A).
 - “(2) GAO AUTHORITY.—In conducting the study and report required under paragraph (1), the Comptroller General—
 - “(A) may use any previous findings, studies, or reports that the Comptroller General previously completed on the Write Your Own program;
 - “(B) shall determine if—
 - “(i) the final rule issued pursuant to subsection (d) allows the Federal Emergency Management Agency to access adequate information regarding the actual expenses of property and casualty insurance companies participating in the Write Your Own program; and
 - “(ii) the actual reimbursements paid out under the final rule issued pursuant to subsection (d) accurately reflect the expenses reported by property and casualty insurance companies participating in the Write Your Own program, including the standard business costs and operating expenses of such companies; and
 - “(C) shall analyze the effect of the final rule issued pursuant to subsection (d) on the level of participation of property and casualty insurers in the Write Your Own program.”

[For definitions of terms used in section 100224 of Pub. L. 112–141, set out above, see section 4004 of this title.]

§4082. Use of insurance pool, companies, or other private organizations for certain payments

(a) Authorization to enter into contracts for certain responsibilities

In order to provide for maximum efficiency in the administration of the flood insurance program and in order to facilitate the expeditious payment of any Federal funds under such program, the Administrator may enter into contracts with pool formed or otherwise created under section 4051 of this title, or any insurance company or other private organizations, for the purpose of securing reinsurance of insurance coverage provided by the program or for the purpose of securing performance by such pool, company, or organization of any or all of the following responsibilities:

- (1) Estimating and later determining any amounts of payments to be made.
- (2) Receiving from the Administrator, disbursing, and accounting for funds in making such payments.
- (3) Making such audits of the records of any insurance company or other insurer, insurance agent or broker, or insurance adjustment organization as may be necessary to assure that proper payments are made.
- (4) Placing reinsurance coverage on insurance provided by such program.
- (5) Otherwise assisting in such manner as the contract may provide to further the purposes of this chapter.

(b) Terms and conditions of contract

Any contract with the pool or an insurance company or other private organization under this section may contain such terms and conditions as the Administrator finds necessary or appropriate for carrying out responsibilities under subsection (a) of this section, and may provide for payment of any costs which the Administrator determines are incidental to carrying out such responsibilities which are covered by the contract.

(c) Competitive bidding

Any contract entered into under subsection (a) of this section may be entered into without regard to section 6101 of title 41 or any other provision of law requiring competitive bidding.

(d) Findings of Administrator

No contract may be entered into under this section unless the Administrator finds that the pool, company, or organization will perform its obligations under the contract efficiently and effectively, and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

(e) Bond; liability of certifying officers and disbursing officers

(1) Any such contract may require the pool, company, or organization or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Administrator may deem appropriate.

(2) No individual designated pursuant to a contract under this section to certify payments shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this section.

(3) No officer disbursing funds shall in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by an individual designated to certify payments as provided in paragraph (2) of this subsection.

(f) Term of contract; renewals; termination

Any contract entered into under this section shall be for a term of one year, and may be made automatically renewable from term to term in the absence of notice by either party of an intention to terminate at the end of the current term; except that the Administrator may terminate any such contract at any time (after reasonable notice to the pool, company, or organization involved) if he finds that the pool, company, or organization has failed substantially to carry out the contract, or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the flood insurance program authorized under this chapter.

(Pub. L. 90–448, title XIII, §1346, Aug. 1, 1968, 82 Stat. 585; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100232(d)(4), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(5) and (f), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

In subsec. (c), “section 6101 of title 41” substituted for “section 3709 of the Revised Statute (41 U.S.C. 5)” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

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

Pub. L. 112–141, §100232(d)(4)(A), inserted “securing reinsurance of insurance coverage provided by the program or for the purpose of” after “for the purpose of” in introductory provisions.

Subsec. (a)(1). Pub. L. 112–141, §100232(d)(4)(B), substituted “Estimating” for “estimating” and period for semicolon at end.

Subsec. (a)(2). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

Pub. L. 112–141, §100232(d)(4)(C), substituted “Receiving” for “receiving” and period for semicolon at end.

Subsec. (a)(3). Pub. L. 112–141, §100232(d)(4)(D)(ii), which directed substitution of period for “; and” was executed by making the substitution for “; and” to reflect the probable intent of Congress.

Pub. L. 112–141, §100232(d)(4)(D)(i), substituted “Making” for “making”.

Subsec. (a)(4). Pub. L. 112–141, §100232(d)(4)(G), added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 112–141, §100232(d)(4)(E), (F), redesignated par. (4) as (5) and substituted “Otherwise” for “otherwise”.

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

1983—Subsecs. (a), (b), (d), (e)(1), (f). Pub. L. 98–181 substituted “Director” for “Secretary” wherever

appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4083. Settlement of claims; arbitration

(a) The Administrator is authorized to make final settlement of any claims or demands which may arise as a result of any financial transactions which he is authorized to carry out under this subchapter, and may, to assist him in making any such settlement, refer any disputes relating to such claims or demands to arbitration, with the consent of the parties concerned.

(b) Such arbitration shall be advisory in nature, and any award, decision, or recommendation which may be made shall become final only upon the approval of the Administrator.

(Pub. L. 90–448, title XIII, §1347, Aug. 1, 1968, 82 Stat. 586; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” in subsecs. (a) and (b).

1983—Pub. L. 98–181 substituted “Director” for “Secretary” in subsecs. (a) and (b).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4084. Records and audits

(a) The flood insurance pool formed or otherwise created under part A of this subchapter, and any insurance company or other private organization executing any contract, agreement, or other appropriate arrangement with the Administrator under part B of this subchapter or this part, shall keep such records as the Administrator shall prescribe, including records which fully disclose the total costs of the program undertaken or the services being rendered, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the pool and any such insurance company or other private organization that are pertinent to the costs of the program undertaken or the services being rendered.

(Pub. L. 90–448, title XIII, §1348, Aug. 1, 1968, 82 Stat. 586; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” wherever appearing.

1983—Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

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

§4101. Identification of flood-prone areas

(a) Publication of information; establishment of flood-risk zones; estimates of flood-caused loss

The Administrator is authorized to consult with, receive information from, and enter into any agreements or other arrangements with the Secretaries of the Army, the Interior, Agriculture, and Commerce, the Tennessee Valley Authority, and the heads of other Federal departments or agencies, on a reimbursement basis, or with the head of any State or local agency, or enter into contracts with any persons or private firms, in order that he may—

- (1) identify and publish information with respect to all flood plain areas, including coastal areas located in the United States, which has special flood hazards, within five years following August 1, 1968, and
- (2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 4026 of this title.

(b) Accelerated identification of flood-risk zones; authority of Administrator: grants, technical assistance, transactions, and payments

The Administrator is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective, the Administrator is authorized, without regard to subsections (a) and (b) of section 3324 of title 31 and section 6101 of title 41, to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

(c) Priority in allocation of manpower and other available resources for identification and mapping of flood hazard areas and flood-risk zones

The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the United States Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of the Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States shall, in consultation with the Administrator, give the highest practicable priority in the allocation of available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the Administrator to meet the deadline established by this section.

(d) Plan for bringing communities with flood-risk zones into full program status

The Administrator shall, not later than September 30, 1984, submit to the Congress a plan for bringing all communities containing flood-risk zones into full program status by September 30, 1987.

(e) Review of flood maps

Once during each 5-year period (the 1st such period beginning on September 23, 1994) or more often as the Administrator determines necessary, the Administrator shall assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under this section, based on an analysis of all natural hazards affecting flood risks.

(f) Updating flood maps

The Administrator shall revise and update any floodplain areas and flood-risk zones—

(1) upon the determination of the Administrator, according to the assessment under subsection (e) of this section, that revision and updating are necessary for the areas and zones; or

(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 Administrator.

(g) Availability of flood maps

To promote compliance with the requirements of this chapter, the Administrator shall make flood insurance rate maps and related information available free of charge to the Federal entities for lending regulation, Federal agency lenders, State agencies directly responsible for coordinating the national flood insurance program, and appropriate representatives of communities participating in the national flood insurance program, and at a reasonable cost to all other persons. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 4017(b)(6) of this title.

(h) Notification of flood map changes

The Administrator shall cause notice to be published in the Federal Register (or shall provide notice by another comparable method) of any change to flood insurance map panels and any change to flood insurance map panels issued in the form of a letter of map amendment or a letter of map revision. Such notice shall be published or otherwise provided not later than 30 days after the map change or revision becomes effective. Notice by any method other than publication in the Federal Register shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as notice in the Federal Register. All notices under this subsection shall include information on how to obtain copies of the changes or revisions.

(i) Compendia of flood map changes

Every 6 months, the Administrator shall publish separately in their entirety within a compendium, all changes and revisions to flood insurance map panels and all letters of map amendment and letters of map revision for which notice was published in the Federal Register or otherwise provided during the preceding 6 months. The Administrator shall make such compendia available, free of charge, to Federal entities for lending regulation, Federal agency lenders, and States and communities participating in the national flood insurance program pursuant to section 4017 of this title and at cost to all other parties. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 4017(b)(6) of this title.

(j) Provision of information

In the implementation of revisions to and updates of flood insurance rate maps, the Administrator shall share information, to the extent appropriate, with the Under Secretary of Commerce for Oceans and Atmosphere and representatives from State coastal zone management programs.

(Pub. L. 90–448, title XIII, §1360, Aug. 1, 1968, 82 Stat. 587; Pub. L. 93–234, title II, §204, Dec. 31, 1973, 87 Stat. 983; Pub. L. 98–181, title I [title IV, §451(d)(1), (6), (7)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98–479, title II, §203(j)(2), Oct. 17, 1984, 98 Stat. 2231; Pub. L. 99–120, §4(a)(3), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99–156, §4(a)(3), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99–219, §4(a)(3), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99–267, §4(a)(3), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99–272, title III, §3010(a)(3), Apr. 7, 1986, 100 Stat. 106; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title V, §541(c), Feb. 5, 1988, 101 Stat. 1939; Pub. L. 101–137, §2, Nov. 3, 1989, 103 Stat. 824; Pub. L. 103–325, title V, §575, Sept. 23, 1994, 108 Stat. 2278; Pub. L. 112–141, div. F, title II, §§100219, 100238(b)(1), July 6, 2012, 126 Stat. 932, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (g), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short

Title note set out under section 4001 of this title and Tables.

CODIFICATION

In subsec. (b), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes (41 U.S.C. 5)” on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2012—Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” wherever appearing. Subsec. (f)(2). Pub. L. 112–141, §100219, struck out “, but which may not exceed 50 percent of the cost of carrying out the requested revision or update” before period at end.

1994—Subsecs. (e) to (j). Pub. L. 103–325 added subsecs. (e) to (j).

1989—Subsec. (a)(2). Pub. L. 101–137 added par. (2) and struck out former par. (2) which read as follows: “establish flood-risk zones in all such areas, and make estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas, by September 30, 1989.”

1988—Subsec. (a)(2). Pub. L. 100–242 substituted “September 30, 1989” for “March 15, 1988”.

1987—Subsec. (a)(2). Pub. L. 100–200 substituted “March 15, 1988” for “December 16, 1987”.

Pub. L. 100–179 substituted “December 16, 1987” for “December 2, 1987”.

Pub. L. 100–170 substituted “December 2, 1987” for “November 15, 1987”.

Pub. L. 100–154 substituted “November 15, 1987” for “October 31, 1987”.

Pub. L. 100–122 substituted “October 31, 1987” for “September 30, 1987”.

1986—Subsec. (a)(2). Pub. L. 99–430 substituted “September 30, 1987” for “September 30, 1986”.

Pub. L. 99–345 substituted “September 30, 1986” for “June 6, 1986”.

Pub. L. 99–289 substituted “June 6, 1986” for “April 30, 1986”.

Pub. L. 99–272 directed amendment identical to Pub. L. 99–219 substituting “March 17, 1986” for “December 15, 1985”.

Pub. L. 99–267 substituted “April 30, 1986” for “March 17, 1986”.

1985—Subsec. (a)(2). Pub. L. 99–219 substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99–156 substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99–120 substituted “November 14, 1985” for “September 30, 1985”.

1984—Subsec. (b). Pub. L. 98–479 substituted reference to subsections (a) and (b) of section 3324 of title 31 for reference to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

1983—Subsec. (a). Pub. L. 98–181, §451(d)(1), in provisions preceding par. (1) substituted “Director” for “Secretary”.

Subsec. (a)(2). Pub. L. 98–181, §451(d)(6), substituted “by September 30, 1985” for “within fifteen years following such date”.

Subsecs. (b), (c). Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary” wherever appearing.

Subsec. (d). Pub. L. 98–181, §451(d)(7), added subsec. (d).

1973—Pub. L. 93–234 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

FLOOD PROTECTION STRUCTURE ACCREDITATION TASK FORCE

Pub. L. 112–141, div. F, title II, §100226, July 6, 2012, 126 Stat. 942, provided that:

“(a) DEFINITIONS.—In this section—

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

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

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

“(b) ESTABLISHMENT.—

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

“(2) DUTIES.—

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

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

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

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

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

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

“(B) the flood protection structure accreditation requirements.

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

“(c) IMPLEMENTATION.—The Administrator and the Secretary of the Army, acting through the Chief of Engineers, shall implement the process developed by the task force under subsection (b) not later than 1 year after the date of enactment of this Act [July 6, 2012] and shall complete the process under subsection (b) not later than 2 years after the date of enactment of this Act.

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

“(1) an interim report, not later than 180 days after the date of enactment of this Act [July 6, 2012]; and

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

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

[For definitions of terms used in section 100226 of Pub. L. 112–141, set out above, see section 4004 of this title.]

GEOSPATIAL DIGITAL FLOOD HAZARD DATA

Pub. L. 108–264, title I, §107, June 30, 2004, 118 Stat. 724, provided that: “For the purposes of flood insurance and floodplain management activities conducted pursuant to the National Flood Insurance

Program under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), geospatial digital flood hazard data distributed by the Federal Emergency Management Agency, or its designee, or the printed products derived from that data, are interchangeable and legally equivalent for the determination of the location of 1 in 100 year and 1 in 500 year flood planes [sic], provided that all other geospatial data shown on the printed product meets or exceeds any accuracy standard promulgated by the Federal Emergency Management Agency.”

REITERATION OF FEMA RESPONSIBILITY TO MAP MUDSLIDES

Pub. L. 108–264, title I, §109, June 30, 2004, 118 Stat. 725, as amended by Pub. L. 109–295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that: “As directed in section 1360(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(b)), the Administrator of the Federal Emergency Management Agency is again directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of such section 1360, in order to make known the degree of hazard within each such zone at the earliest possible date.”

TECHNICAL MAPPING ADVISORY COUNCIL

Pub. L. 103–325, title V, §576, Sept. 23, 1994, 108 Stat. 2280, established the Technical Mapping Advisory Council to help improve flood insurance rate maps and provided for its termination 5 years after the appointment of all its members.

§4101a. Technical Mapping Advisory Council

(a) Establishment

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

(b) Membership

(1) In general

The Council shall consist of—

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

- (i) a member of a recognized professional surveying association or organization;
- (ii) a member of a recognized professional mapping association or organization;
- (iii) a member of a recognized professional engineering association or organization;
- (iv) a member of a recognized professional association or organization representing flood hazard determination firms;
- (v) a representative of the United States Geological Survey;
- (vi) a representative of a recognized professional association or organization representing State geographic information;
- (vii) a representative of State national flood insurance coordination offices;
- (viii) a representative of the Corps of Engineers;
- (ix) a member of a recognized regional flood and storm water management organization;
- (x) 2 representatives of different State government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce flood insurance rate maps;
- (xi) 2 representatives of different local government agencies that have entered into cooperating technical partnerships with the Administrator and have demonstrated the capability to produce flood insurance maps;
- (xii) a member of a recognized floodplain management association or organization;
- (xiii) a member of a recognized risk management association or organization; and
- (xiv) a State mitigation officer.

(2) Qualifications

Members of the Council shall be appointed based on their demonstrated knowledge and competence

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

(c) Duties

The Council shall—

- (1) recommend to the Administrator how to improve in a cost-effective manner the—
 - (A) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and
 - (B) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States;

- (2) recommend to the Administrator mapping standards and guidelines for—
 - (A) flood insurance rate maps; and
 - (B) data accuracy, data quality, data currency, and data eligibility;

- (3) recommend to the Administrator how to maintain, on an ongoing basis, flood insurance rate maps and flood risk identification;
- (4) recommend procedures for delegating mapping activities to State and local mapping partners;
- (5) recommend to the Administrator and other Federal agencies participating in the Council—
 - (A) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination; and
 - (B) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies; and

- (6) submit an annual report to the Administrator that contains—
 - (A) a description of the activities of the Council;
 - (B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as required under section 4101b of this title; and
 - (C) a summary of recommendations made by the Council to the Administrator.

(d) Future conditions risk assessment and modeling report

(1) In general

The Council shall consult with scientists and technical experts, other Federal agencies, States, and local communities to—

- (A) develop recommendations on how to—
 - (i) ensure that flood insurance rate maps incorporate the best available climate science to assess flood risks; and
 - (ii) ensure that the Federal Emergency Management Agency uses the best available methodology to consider the impact of—
 - (I) the rise in the sea level; and
 - (II) future development on flood risk; and

- (B) not later than 1 year after July 6, 2012, prepare written recommendations in a future conditions risk assessment and modeling report and to submit such recommendations to the Administrator.

(2) Responsibility of the Administrator

The Administrator, as part of the ongoing program to review and update National Flood Insurance Program rate maps under section 4101b of this title, shall incorporate any future risk assessment submitted under paragraph (1)(B) in any such revision or update.

(e) Chairperson

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

(f) Coordination

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

(g) Compensation

Members of the Council shall receive no additional compensation by reason of their service on the Council.

(h) Meetings and actions

(1) In general

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

(2) Initial meeting

The Administrator, or a person designated by the Administrator, shall request and coordinate the initial meeting of the Council.

(i) Officers

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

(j) Staff

(1) Staff of FEMA

Upon the request of the Chairperson, the Administrator may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(2) Staff of other Federal agencies

Upon request of the Chairperson, any other Federal agency that is a member of the Council may detail, on a nonreimbursable basis, personnel to assist the Council in carrying out its duties.

(k) Powers

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

(l) Report to Congress

The Administrator, on an annual basis, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Office of Management and Budget on the—

(1) recommendations made by the Council;

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

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

(Pub. L. 112–141, div. F, title II, §100215, July 6, 2012, 126 Stat. 924.)

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

§4101b. National Flood Mapping Program

(a) Reviewing, updating, and maintaining maps

The Administrator, in coordination with the Technical Mapping Advisory Council established under section 4101a of this title, shall establish an ongoing program under which the Administrator shall review, update, and maintain National Flood Insurance Program rate maps in accordance with this section.

(b) Mapping

(1) In general

In carrying out the program established under subsection (a), the Administrator shall—

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

- (i) all populated areas and areas of possible population growth located within the 100-year floodplain;
- (ii) all populated areas and areas of possible population growth located within the 500-year floodplain;
- (iii) areas of residual risk, including areas that are protected by levees, dams, and other flood control structures;
- (iv) areas that could be inundated as a result of the failure of a levee, dam, or other flood control structure;
- (v) areas that are protected by non-structural flood mitigation features; and
- (vi) the level of protection provided by flood control structures and by non-structural flood mitigation features;

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

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

(2) Mapping elements

Each map updated under this section shall—

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

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

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

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

(3) Other inclusions

In updating maps under this section, the Administrator shall include—

(A) any relevant information on coastal inundation from—

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

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

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

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

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

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

(c) Standards

In updating and maintaining maps under this section, the Administrator shall—

(1) establish standards to—

(A) ensure that maps are adequate for—

(i) flood risk determinations; and

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

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

(2) publish maps in a format that is—

(A) digital geospatial data compliant;

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

(C) aligned with official data defined by the National Geodetic Survey.

(d) Communication and outreach

(1) In general

The Administrator shall—

(A) before commencement of any mapping or map updating process, notify each community affected of the model or models that the Administrator plans to use in such process and provide an explanation of why such model or models are appropriate;

(B) provide each community affected a 30-day period beginning upon notification under subparagraph (A) to consult with the Administrator regarding the appropriateness, with respect to such community, of the mapping model or models to be used; provided that consultation by a community pursuant to this subparagraph shall not waive or otherwise affect any right of the community to appeal any flood hazard determinations;

(C) upon completion of the first Independent Data Submission, transmit a copy of such Submission to the affected community, provide the affected community a 30-day period during which the community may provide data to Administrator¹ that can be used to supplement or modify the existing data, and incorporate any data that is consistent with prevailing engineering principles;

(D) work with States, local communities, and property owners to identify areas and features described in subsection (b)(1)(A)(v);

(E) work to enhance communication and outreach to States, local communities, and property owners about the effects—

(i) of any potential changes to National Flood Insurance Program rate maps that may result from the mapping program required under this section; and

(ii) that any such changes may have on flood insurance purchase requirements;

(F) engage with local communities to enhance communication and outreach to the residents of such communities, including tenants (with regard to contents insurance), on the matters described under subparagraph (E);

(G) not less than 30 days before issuance of any preliminary map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the preliminary map in writing of—

(i) the estimated schedule for—

(I) community meetings regarding the preliminary map;

(II) publication of notices regarding the preliminary map in local newspapers; and

(III) the commencement of the appeals process regarding the map; and

(ii) the estimated number of homes and businesses that will be affected by changes contained in the preliminary map, including how many structures will be² that were not previously located in an area having special flood hazards will be located within such an area under the preliminary map; and

(H) upon the issuance of any proposed map and any notice of an opportunity to make an appeal relating to the proposed map, notify the Senators for each State affected and each Member of the House of Representatives for each congressional district affected by the proposed map of any action taken by the Administrator with respect to the proposed map or an appeal relating to the proposed map.

(2) Required activities

The communication and outreach activities required under paragraph (1) shall include—

(A) notifying property owners when their properties become included in, or when they are excluded from, an area covered by the mandatory flood insurance purchase requirement under section 4012a of this title;

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

(C) educating property owners regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) for such properties and the contents of such properties;

(D) educating property owners about flood map revisions and the process available to such owners to appeal proposed changes in flood elevations through their community, including by notifying local radio and television stations; and

(E) encouraging property owners to maintain or acquire flood insurance coverage.

(e) Community remapping request

Upon the adoption by the Administrator of any recommendation by the Technical Mapping Advisory Council for reviewing, updating, or maintaining National Flood Insurance Program rate maps in accordance with this section, a

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

(f) Authorization of appropriations

There is authorized to be appropriated to the Administrator to carry out this section \$400,000,000 for each of fiscal years 2013 through 2017.

(Pub. L. 112–141, div. F, title II, §100216, July 6, 2012, 126 Stat. 927; Pub. L. 113–89, §§27, 30, Mar. 21, 2014, 128 Stat. 1033, 1034.)

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs. (b)(1)(C) and (d)(2)(C), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2014—Subsec. (b)(1)(A)(v), (vi). Pub. L. 113–89, §27(1), added cl. (v), redesignated former cl. (v) as (vi), and, in cl. (vi), inserted “and by non-structural flood mitigation features” before semicolon at end.

Subsec. (d)(1)(A). Pub. L. 113–89, §30(3), added subpar. (A). Former subpar. (A) redesignated (D).

Pub. L. 113–89, §27(2)(C), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (d)(1)(B). Pub. L. 113–89, §30(3), added subpar. (B). Former subpar. (B) redesignated (E).

Pub. L. 113–89, §27(2)(A), redesignated subpar. (A) as (B). Former subpar. (B) redesignated (C).

Subsec. (d)(1)(C). Pub. L. 113–89, §30(3), added subpar. (C). Former subpar. (C) redesignated (F).

Pub. L. 113–89, §30(1), substituted “subparagraph (E)” for “subparagraph (B)” and struck out “and” at end.

Pub. L. 113–89, §27(2)(A), (B), redesignated subpar. (B) as (C) and substituted “subparagraph (B)” for “subparagraph (A)”. Former subpar. (C) redesignated (D).

Subsec. (d)(1)(D). Pub. L. 113–89, §30(2), redesignated subpar. (A) as (D). Former subpar. (D) redesignated (H).

Pub. L. 113–89, §27(2)(A), redesignated subpar. (C) as (D).

Subsec. (d)(1)(E), (F). Pub. L. 113–89, §30(2), redesignated subpars. (B) and (C) as (E) and (F), respectively.

Subsec. (d)(1)(G). Pub. L. 113–89, §30(4), added subpar. (G).

Subsec. (d)(1)(H). Pub. L. 113–89, §30(2), redesignated subpar. (D) as (H).

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

¹ *So in original. Probably should be preceded by “the”.*

² *So in original. The words “will be” probably should not appear.*

§4101c. Coordination

(a) Interagency budget crosscut and coordination report

(1) In general

The Secretary of Homeland Security, the Administrator, the Director of the Office of Management and Budget, and the heads of each Federal department or agency carrying out activities under sections 4101a and 4101b of

this title shall work together to ensure that flood risk determination data and geospatial data are shared among Federal agencies in order to coordinate the efforts of the Nation to reduce its vulnerability to flooding hazards.

(2) Report

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

- (A) contains an interagency budget crosscut report that displays relevant sections of the budget proposed for each of the Federal agencies working on flood risk determination data and digital elevation models, including any planned interagency or intra-agency transfers; and
- (B) describes how the efforts aligned with such sections complement one another.

(b) Duties of the Administrator

In carrying out sections 4101a and 4101b of this title, the Administrator shall—

- (1) participate, pursuant to section 216 of the E–Government Act of 2002 (44 U.S.C. 3501 note), in the establishment of such standards and common protocols as are necessary to assure the interoperability of geospatial data for all users of such information;
- (2) coordinate with, seek assistance and cooperation of, and provide a liaison to the Federal Geographic Data Committee pursuant to the Office of Management and Budget Circular A–16 and Executive Order 12906 (43 U.S.C. 1457 note; relating to the National Spatial Data Infrastructure) for the implementation of and compliance with such standards;
- (3) integrate with, leverage, and coordinate funding of, to the maximum extent practicable, the current flood mapping activities of each unit of State and local government;
- (4) integrate with, leverage, and coordinate, to the maximum extent practicable, the current geospatial activities of other Federal agencies and units of State and local government; and
- (5) develop a funding strategy to leverage and coordinate budgets and expenditures, and to maintain or establish joint funding and other agreement mechanisms with other Federal agencies and units of State and local government to share in the collection and utilization of geospatial data among all governmental users.

(Pub. L. 112–141, div. F, title II, §100220, July 6, 2012, 126 Stat. 932.)

REFERENCES IN TEXT

Section 216 of the E–Government Act of 2002, referred to in subsec. (b)(1), is section 216 of Pub. L. 107–347, which is set out in a note under section 3501 of Title 44, Public Printing and Documents.

Executive Order 12906, referred to in subsec. (b)(2), is Ex. Ord. No. 12906, Apr. 11, 1994, 59 F.R. 17671, which is set out as a note under section 1457 of Title 43, Public Lands.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

§4101d. Flood insurance rate map certification

The Administrator shall implement a flood mapping program for the National Flood Insurance Program, only after review by the Technical Mapping Advisory Council, that, when applied, results in technically credible flood hazard data in all areas where Flood Insurance Rate Maps are prepared or updated, shall certify in writing to the Congress when such a program has been implemented, and shall provide to the Congress the Technical Mapping Advisory Council review report.

(Pub. L. 113–89, §17, Mar. 21, 2014, 128 Stat. 1027.)

CODIFICATION

Section was enacted as part of the Homeowner Flood Insurance Affordability Act of 2014, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

DEFINITIONS

For definitions of terms used in this section, see section 4005 of this title.

§4101e. Exemption from fees for certain map change requests

Notwithstanding any other provision of law, a requester shall be exempt from submitting a review or processing fee for a request for a flood insurance rate map change based on a habitat restoration project that is funded in whole or in part with Federal or State funds, including dam removal, culvert redesign or installation, or the installation of fish passage.

(Pub. L. 113–89, §22, Mar. 21, 2014, 128 Stat. 1028.)

CODIFICATION

Section was enacted as part of the Homeowner Flood Insurance Affordability Act of 2014, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

§4102. Criteria for land management and use

(a) Studies and investigations

The Administrator is authorized to carry out studies and investigations, utilizing to the maximum extent practicable the existing facilities and services of other Federal departments or agencies, and State and local governmental agencies, and any other organizations, with respect to the adequacy of State and local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention, and may enter into any contracts, agreements, or other appropriate arrangements to carry out such authority.

(b) Extent of studies and investigations

Such studies and investigations shall include, but not be limited to, laws, regulations, or ordinances relating to encroachments and obstructions on stream channels and floodways, the orderly development and use of flood plains of rivers or streams, floodway encroachment lines, and flood plain zoning, building codes, building permits, and subdivision or other building restrictions.

(c) Development of comprehensive criteria designed to encourage adoption of adequate State and local measures

On the basis of such studies and investigations, and such other information as he deems necessary, the Administrator shall from time to time develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will—

- (1) constrict the development of land which is exposed to flood damage where appropriate,
- (2) guide the development of proposed construction away from locations which are threatened by flood hazards,
- (3) assist in reducing damage caused by floods, and
- (4) otherwise improve the long-range land management and use of flood-prone areas,

and he shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of such criteria and the adoption and enforcement of such measures.

(d) Flood mitigation methods for buildings

The Administrator shall establish guidelines for property owners that—

- (1) provide alternative methods of mitigation, other than building elevation, to reduce flood risk to residential buildings that cannot be elevated due to their structural characteristics, including—
 - (A) types of building materials; and
 - (B) types of floodproofing; and

- (2) inform property owners about how the implementation of mitigation methods described in paragraph (1) may affect risk premium rates for flood insurance coverage under the National Flood Insurance Program.

(Pub. L. 90–448, title XIII, §1361, Aug. 1, 1968, 82 Stat. 587; Pub. L. 91–152, title IV, §410(c), Dec. 24, 1969, 83 Stat. 397; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958; Pub. L. 113–89, §26(a)(1), Mar. 21, 2014, 128 Stat. 1032.)

AMENDMENTS

2014—Subsec. (d). Pub. L. 113–89 added subsec. (d).

2012—Subsecs. (a), (c). Pub. L. 112–141 substituted “Administrator” for “Director”.

1983—Subsecs. (a), (c). Pub. L. 98–181 substituted “Director” for “Secretary”.

1969—Subsec. (c). Pub. L. 91–152 substituted provisions requiring development of criteria designed to encourage adoption of adequate State and local measures, for provisions requiring development of criteria designed to encourage adoption of permanent State and local measures.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

GUIDELINES

Pub. L. 113–89, §26(a)(2), Mar. 21, 2014, 128 Stat. 1032, provided that: “The Administrator [of the Federal Emergency Management Agency] shall issue the guidelines required under section 1361(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4102(d)), as added by the amendment made by paragraph (1) of this subsection, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act [Mar. 21, 2014].”

TASK FORCE ON NATURAL AND BENEFICIAL FUNCTIONS OF THE FLOODPLAIN

Pub. L. 103–325, title V, §562, Sept. 23, 1994, 108 Stat. 2276, established the Task Force on Natural and Beneficial Functions of the Floodplain to conduct a study on the functions of the floodplain that reduce flood-related losses and provided for its termination 24 months after its last member was designated.

§4102a. Repealed. Pub. L. 112–141, div. F, title II, §100225(c), July 6, 2012, 126 Stat. 941

Section, Pub. L. 90–448, title XIII, §1361A, as added Pub. L. 108–264, title I, §102(a), June 30, 2004, 118 Stat. 714, created a pilot program for mitigation of severe repetitive loss properties by mitigating flood damage to such properties and losses to the National Flood Insurance Fund from such properties.

§4103. Repealed. Pub. L. 103–325, title V, §551(a), Sept. 23, 1994, 108 Stat. 2269

Section, Pub. L. 90–448, title XIII, §1362, Aug. 1, 1968, 82 Stat. 588; Pub. L. 95–128, title VII, §704(b), Oct. 12, 1977, 91 Stat. 1145; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229, related to purchase, by Director, of insured properties damaged substantially beyond repair by flood, for subsequent transfer to State or local agency upon negotiated conditions.

SAVINGS PROVISION

Pub. L. 103–325, title V, §551(c), Sept. 23, 1994, 108 Stat. 2269, required the Director of the Federal Emergency Management Agency to comply with any purchase or loan commitment entered into before the expiration of the 1-year period beginning on Sept. 23, 1994, pursuant to authority under this

section or section 551(b) of Pub. L. 103–325.

TRANSITION PHASE

Pub. L. 103–325, title V, §551(b), Sept. 23, 1994, 108 Stat. 2269, permitted the Director of the Federal Emergency Management Agency to enter into loan and purchase commitments as provided under this section (as in effect immediately before the enactment of Pub. L. 103–325) during the 1-year period beginning on Sept. 23, 1994.

§4104. Flood elevation determinations

(a) Publication or notification of proposed flood elevation determinations

In establishing projected flood elevations and designating areas having special flood hazards for land use purposes with respect to any community pursuant to section 4102 of this title, the Administrator shall first propose such determinations and designations 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.

(b) Publication of flood elevation determinations; appeal of owner or lessee to local government; scientific or technical knowledge or information as basis for appeal; modification of proposed determinations

The Administrator shall publish notification of flood elevation determinations and designations of areas having special flood hazards in a prominent local newspaper at least twice during the ten-day period following notification to the local government. During the ninety-day period following the second publication, any owner or lessee of real property within the community who believes his property rights to be adversely affected by the Administrator's proposed determination may appeal such determination to the local government. The sole grounds for appeal shall be the possession of knowledge or information indicating that (1) the elevations being proposed by the Administrator with respect to an identified area having special flood hazards are scientifically or technically incorrect, or (2) the designation of an identified special flood hazard area is scientifically or technically incorrect.

(c) Appeals by private persons; submission of negating or contradicting data to community; opinion of community respecting justification for appeal by community; transmission of individual appeals to Administrator; filing of community action with Administrator

Appeals by private persons shall be made to the chief executive officer of the community, or to such agency as he shall publicly designate, and shall set forth the data that tend to negate or contradict the Administrator's finding in such form as the chief executive officer may specify. The community shall review and consolidate all such appeals and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name. Whether or not the community decides to appeal the Administrator's determination, copies of individual appeals shall be sent to the Administrator as they are received by the community, and the community's appeal or a copy of its decision not to appeal shall be filed with the Administrator not later than ninety days after the date of the second newspaper publication of the Administrator's notification.

(d) Administrative review of appeals by private persons; modification of proposed determinations; decision of Administrator: form and distribution

In the event the Administrator does not receive an appeal from the community within the ninety days provided, he shall consolidate and review on their own merits, in accordance with the procedures set forth in subsection (e) of this section, the appeals filed within the community by private persons and shall make such modifications of his proposed determinations as may be appropriate, taking into account the written opinion, if any, issued by the community in not supporting such appeals. The Administrator's decision shall be in written form, and copies thereof shall be sent both to the chief executive officer of the community and to each individual appellant.

(e) Administrative review of appeals by community; agencies for resolution of conflicting data; availability of flood insurance pending such resolution; time for determination of Administrator; community adoption of local land use and control measures within reasonable time of final determination; public inspection and admissibility in evidence of reports and other administrative information

Upon appeal by any community, as provided by this section, the Administrator shall review and take fully into account any technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based. The Administrator shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to the Scientific Resolution Panel provided for in section 4104–1 of this title. Until the conflict in data is resolved, and the Administrator makes a final determination on the basis of his findings in the Federal Register,

and so notifies the governing body of the community, flood insurance previously available within the community shall continue to be available, and no person shall be denied the right to purchase such insurance at chargeable rates. The Administrator shall make his determination within a reasonable time. The community shall be given a reasonable time after the Administrator's final determination in which to adopt local land use and control measures consistent with the Administrator's determination. The reports and other information used by the Administrator in making his final determination shall be made available for public inspection and shall be admissible in a court of law in the event the community seeks judicial review as provided by this section.

(f) Reimbursement of certain expenses

When, incident to any appeal under subsection (b) or (c) of this section, the owner or lessee of real property or the community, as the case may be, or, in the case of an appeal that is resolved by submission of conflicting data to the Scientific Resolution Panel provided for in section 4104–1 of this title, the community, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal based on a scientific or technical error on the part of the Federal Emergency Management Agency, which is successful in whole or part, the Administrator shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. The Administrator may use such amounts from the National Flood Insurance Fund established under section 4017 of this title as may be necessary to carry out this subsection. The Administrator shall promulgate regulations to carry out this subsection.

(g) Judicial review of final administrative determinations; venue; time for appeal; scope of review; good cause for stay of final determinations

Except as provided in section 4104–1 of this title, any appellant aggrieved by any final determination of the Administrator upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of title 5. During the pendency of any such litigation, all final determinations of the Administrator shall be effective for the purposes of this chapter unless stayed by the court for good cause shown.

(Pub. L. 90–448, title XIII, §1363, as added Pub. L. 93–234, title I, §110, Dec. 31, 1973, 87 Stat. 980; amended Pub. L. 95–128, title VII, §704(c), Oct. 12, 1977, 91 Stat. 1146; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §§100217, 100218(b), 100238(b)(1), (2), 100246, July 6, 2012, 126 Stat. 930, 932, 958, 967; Pub. L. 113–89, §18(a), Mar. 21, 2014, 128 Stat. 1027.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (g), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2014—Subsec. (f). Pub. L. 113–89 inserted “or, in the case of an appeal that is resolved by submission of conflicting data to the Scientific Resolution Panel provided for in section 4104–1 of this title, the community,” after “as the case may be,” and substituted “The Administrator may use such amounts from the National Flood Insurance Fund established under section 4017 of this title as may be necessary to carry out this subsection.” for “The amounts available for implementing this subsection shall not exceed \$250,000.”

2012—Subsec. (a). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”. Pub. L. 112–141, §100217(1), inserted “and designating areas having special flood hazards” after “flood elevations” and substituted “such determinations and designations” for “such determinations”.

Subsec. (b). Pub. L. 112–141, §100238(b)(1), (2), substituted “Administrator” for “Director” in first sentence and “Administrator’s” for “Director’s” in second sentence.

Pub. L. 112–141, §100217(2), inserted “and designations of areas having special flood hazards” after “flood elevation determinations” and substituted “The sole grounds for appeal shall be the possession of knowledge or information indicating that (1) the elevations being proposed by the Administrator with respect to an identified area having special flood hazards are scientifically or technically incorrect, or (2) the designation of an identified special flood hazard area is scientifically or technically incorrect.”

for “The sole basis for such appeal shall be the possession of knowledge or information indicating that the elevations being proposed by the Director with respect to an identified area having special flood hazards are scientifically or technically incorrect, and the sole relief which shall be granted under the authority of this section in the event that such appeal is sustained in accordance with subsection (e) or (f) of this section is a modification of the Director's proposed determination accordingly.”

Subsecs. (c), (d). Pub. L. 112–141, §100238(b)(1), (2), substituted “Administrator” for “Director” and “Administrator's” for “Director's” wherever appearing.

Subsec. (e). Pub. L. 112–141, §100238(b)(1), (2), substituted “Administrator” for “Director” wherever appearing and “Administrator's” for “Director's” in two places.

Pub. L. 112–141, §100218(b)(1), substituted “the Scientific Resolution Panel provided for in section 4104–1 of this title” for “an independent scientific body or appropriate Federal agency for advice”.

Subsec. (f). Pub. L. 112–141, §100246, added subpar. (f) and struck out former subpar. (f) which read as follows: “When, incident to any appeal under subsection (b) or (c) of this section, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Director shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Director in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection, not to exceed \$250,000.”

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

Pub. L. 112–141, §100218(b)(2), substituted “Except as provided in section 4104–1 of this title, any appellant” for “Any appellant”.

1983—Pub. L. 98–181 substituted “Director” for “Secretary” and “Director's” for “Secretary's” wherever appearing.

1977—Subsecs. (f), (g). Pub. L. 95–128 added subsec. (f) and redesignated former subsec. (f) as (g).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4104–1. Scientific Resolution Panel

(a) Availability

(1) In general

Pursuant to the authority provided under section 4104(e) of this title, the Administrator shall make available an independent review panel, to be known as the Scientific Resolution Panel, to any community—

(A) that has—

(i) filed a timely map appeal in accordance with section 4104 of this title;

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

and

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

(B) that has received an unsatisfactory ruling under the map revision process established pursuant to section 4101(f) of this title.

(2) Appeals by owners and lessees

If a community and an owner or lessee of real property within the community appeal a proposed determination of a flood elevation under section 4104(b) of this title, upon the request of the community—

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

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

(3) Definition

For purposes of paragraph (1)(B), an “unsatisfactory ruling” means that a community—

(A) received a revised Flood Insurance Rate Map from the Federal Emergency Management Agency, via a Letter of Final Determination, after September 30, 2008, and prior to July 6, 2012;

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

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

(b) Membership

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

(c) Determination

(1) In general

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

(2) Basis

The determination of the Scientific Resolution Panel shall be based on—

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

(B) data provided by the Administrator.

(3) No alternative determinations permissible

The Scientific Resolution Panel—

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

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

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

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

(4) Effect of determination

(A) Binding

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

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

(ii) violate applicable law.

(B) Written justification not to enforce

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

(C) Appeal of determination not to enforce

If the Administrator elects not to implement the determination of the Scientific Resolution Panel pursuant to subparagraph (A), the community may appeal the determination of the Administrator as provided for under section 4104(g) of this title.

(d) Maps used for insurance and mandatory purchase requirements

With respect to any community that has a dispute that is being considered by the Scientific Resolution Panel formed pursuant to this subsection, the Federal Emergency Management Agency shall ensure that for each such community that—

- (1) the Flood Insurance Rate Map described in the most recently issued Letter of Final Determination shall be in force and effect with respect to such community; and
- (2) flood insurance shall continue to be made available to the property owners and residents of the participating community.

(Pub. L. 90–448, title XIII, §1363A, as added Pub. L. 112–141, div. F, title II, §100218(a), July 6, 2012, 126 Stat. 930.)

§4104a. Notice requirements

(a) Notification of special flood hazards

(1) Regulated lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home that the regulated lending institution determines is located or is to be located in an area that has been identified by the Administrator under this chapter or the Flood Disaster Protection Act of 1973 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) and the servicer of the loan of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction. The regulations shall also require that the regulated lending institution retain a record of the receipt of the notices by the purchaser or lessee and the servicer.

(2) Federal agency lenders

Each Federal agency lender shall by regulation require notification in the manner provided under paragraph (1) with respect to any loan that is made by the Federal agency lender and secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Administrator under this chapter or the Flood Disaster Protection Act of 1973 as an area having special flood hazards. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

(3) Contents of notice

Written notification required under this subsection shall include—

- (A) a warning, in a form to be established by the Administrator, stating that the building on the improved real estate securing the loan is located, or the mobile home securing the loan is or is to be located, in an area having special flood hazards;
- (B) a description of the flood insurance purchase requirements under section 102(b) of the Flood Disaster Protection Act of 1973 [42 U.S.C. 4012a(b)];
- (C) a statement that flood insurance coverage may be purchased under the national flood insurance program and is also available from private insurers, as required under section 102(b)(6) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(6)); and
- (D) any other information that the Administrator considers necessary to carry out the purposes of the national flood insurance program.

(b) Notification of change of servicer

(1) Lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, in connection with the making, increasing, extending, renewing, selling, or transferring any loan described in subsection (a)(1) of this section, to notify the Administrator (or the designee of the Administrator) in writing during the term of the loan of the servicer of the loan. Such institutions shall also notify the Administrator (or such designee) of any change in the servicer of the loan, not later than 60 days after the effective date of such change. The regulations under this subsection

shall provide that upon any change in the servicing of a loan, the duty to provide notification under this subsection shall transfer to the transferee servicer of the loan.

(2) Federal agency lenders

Each Federal agency lender shall by regulation provide for notification in the manner provided under paragraph (1) with respect to any loan described in subsection (a)(1) of this section that is made by the Federal agency lender. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1) of this subsection.

(c) Notification of expiration of insurance

The Administrator (or the designee of the Administrator) shall, not less than 45 days before the expiration of any contract for flood insurance under this chapter, issue notice of such expiration by first class mail to the owner of the property covered by the contract, the servicer of any loan secured by the property covered by the contract, and (if known to the Administrator) the owner of the loan.

(Pub. L. 90–448, title XIII, §1364, as added Pub. L. 93–383, title VIII, §816(a), Aug. 22, 1974, 88 Stat. 739; amended Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §527, Sept. 23, 1994, 108 Stat. 2263; Pub. L. 112–141, div. F, title II, §§100238(b)(1), 100239(b), July 6, 2012, 126 Stat. 958, 960.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (2) and (c), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Flood Disaster Protection Act of 1973, referred to in subsec. (a)(1), (2), is Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, as amended, which enacted sections 4002, 4003, 4012a, 4104, 4104a, 4105 to 4107, and 4128 of this title, amended sections 4001, 4013 to 4016, 4026, 4054, 4056, 4101, and 4121 of this title and sections 24 and 1709–1 of Title 12, Banks and Banking, repealed section 4021 of this title, and enacted provision set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

AMENDMENTS

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

Subsec. (a)(3)(C). Pub. L. 112–141, §100239(b), inserted “, as required under section 102(b)(6) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)(6))” after “private insurers”.

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

1994—Pub. L. 103–325 amended section generally. Prior to amendment, section read as follows: “Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation require such institutions, as a condition of making, increasing, extending, or renewing (after the expiration of thirty days following August 22, 1974) any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director under this chapter or Public Law 93–234 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction.”

1983—Pub. L. 98–181 substituted “Director” for “Secretary”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency

relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4104b. Standard hazard determination forms

(a) Development

The Administrator, in consultation with representatives of the mortgage and lending industry, the Federal entities for lending regulation, the Federal agency lenders, and any other appropriate individuals, shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Administrator as an area having special flood hazards and in which flood insurance under this chapter is available. The form shall be established by regulations issued not later than 270 days after September 23, 1994.

(b) Design and contents

(1) Purpose

The form under subsection (a) of this section shall be designed to facilitate compliance with the flood insurance purchase requirements of this chapter.

(2) Contents

The form shall require identification of the type of flood-risk zone in which the building or mobile home is located, the complete map and panel numbers for the improved real estate or property on which the mobile home is located, the community identification number and community participation status (for purposes of the national flood insurance program) of the community in which the improved real estate or such property is located, and the date of the map used for the determination, with respect to flood hazard information on file with the Administrator. If the building or mobile home is not located in an area having special flood hazards the form shall require a statement to such effect and shall indicate the complete map and panel numbers of the improved real estate or property on which the mobile home is located. If the complete map and panel numbers are not available because the building or mobile home is not located in a community that is participating in the national flood insurance program or because no map exists for the relevant area, the form shall require a statement to such effect. The form shall provide for inclusion or attachment of any relevant documents indicating revisions or amendments to maps.

(c) Required use

The Federal entities for lending regulation shall by regulation require the use of the form under this section by regulated lending institutions. Each Federal agency lender shall by regulation provide for the use of the form with respect to any loan made by such Federal agency lender. The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association shall require the use of the form with respect to any loan purchased by such entities. A lender or other person may comply with the requirement under this subsection by using the form in a printed, computerized, or electronic manner.

(d) Guarantees regarding information

In providing information regarding special flood hazards on the form developed under this section, any lender (or other person required to use the form) who makes, increases, extends, or renews a loan secured by improved real estate or a mobile home may provide for the acquisition or determination of such information to be made by a person other than such lender (or other person), only to the extent such person guarantees the accuracy of the information.

(e) Reliance on previous determination

Any person increasing, extending, renewing, or purchasing a loan secured by improved real estate or a mobile home may rely on a previous determination of whether the building or mobile home is located in an area having special flood hazards (and shall not be liable for any error in such previous determination), if the previous determination was made not more than 7 years before the date of the transaction and the basis for the previous determination has been set forth on a form under this section, unless—

- (1) map revisions or updates pursuant to section 4101(f) of this title after such previous determination have resulted in the building or mobile home being located in an area having special flood hazards; or
- (2) the person contacts the Administrator to determine when the most recent map revisions or updates affecting such property occurred and such revisions and updates have occurred after such previous

determination.

(f) Effective date

The regulations under this section requiring use of the form established pursuant to this section shall be issued together with the regulations required under subsection (a) of this section and shall take effect upon the expiration of the 180-day period beginning on such issuance.

(Pub. L. 90–448, title XIII, §1365, as added Pub. L. 103–325, title V, §528, Sept. 23, 1994, 108 Stat. 2264; amended Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsecs. (a), (b)(2), (e)(2). Pub. L. 112–141 substituted “Administrator” for “Director” wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4104c. Mitigation assistance

(a) Authority

The Administrator shall carry out a program to provide financial assistance to States and communities, using amounts made available from the National Flood Mitigation Fund under section 4104d of this title, for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance under this chapter. Such financial assistance shall be made available—

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

(b) Eligibility for mitigation assistance

To be eligible to receive financial assistance under this section for mitigation activities, a State or community shall develop, and have approved by the Administrator, a flood risk mitigation plan (in this section referred to as a “mitigation plan”), that describes the mitigation activities to be carried out with assistance provided under this section, is consistent with the criteria established by the Administrator under section 4102 of this title, provides for reduction of flood losses to structures for which contracts for flood insurance are available under this chapter, and may be included in a multihazard mitigation plan. The mitigation plan shall be consistent with a comprehensive strategy for mitigation activities for the area affected by the mitigation plan, that has been adopted by the State or community following a public hearing.

(c) Eligible mitigation activities

(1) Requirement of consistency with approved mitigation plan

Amounts provided under this section may be used only for mitigation activities that are consistent with mitigation plans that are approved by the Administrator and identified under paragraph (4). The Administrator shall provide assistance under this section to the extent amounts are available in the National Flood Mitigation Fund pursuant to appropriation Acts, subject only to the absence of approvable mitigation plans.

(2) Requirements of technical feasibility, cost effectiveness, and interest of National Flood Insurance Fund

(A) In general

The Administrator may approve only mitigation activities that the Administrator determines—

- (i) are technically feasible and cost-effective; or
- (ii) will eliminate future payments from the National Flood Insurance Fund for severe repetitive loss structures through an acquisition or relocation activity.

(B) Considerations

In making a determination under subparagraph (A), the Administrator shall take into consideration recognized ancillary benefits.

(3) Eligible activities

Eligible activities under a mitigation plan may include—

- (A) demolition or relocation of any structure located on land that is along the shore of a lake or other body of water and is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or flooding;
- (B) elevation, relocation, demolition, or floodproofing of structures (including public structures) located in areas having special flood hazards or other areas of flood risk;
- (C) acquisition by States and communities of properties (including public properties) located in areas having special flood hazards or other areas of flood risk and properties substantially damaged by flood, for public use, as the Administrator determines is consistent with sound land management and use in such area;
- (D) elevation, relocation, or floodproofing of utilities (including equipment that serves structures);
- (E) minor physical mitigation efforts that do not duplicate the flood prevention activities of other Federal agencies and that lessen the frequency or severity of flooding and decrease predicted flood damages, which shall not include major flood control projects such as dikes, levees, seawalls, groins, and jetties unless the Administrator specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund;
- (F) the development or update of mitigation plans by a State or community which meet the planning criteria established by the Administrator, except that the amount from grants under this section that may be used under this subparagraph may not exceed \$50,000 for any mitigation plan of a State or \$25,000 for any mitigation plan of a community;
- (G) the provision of technical assistance by States to communities and individuals to conduct eligible mitigation activities;
- (H) other activities that the Administrator considers appropriate and specifies in regulation;
- (I) other mitigation activities not described in subparagraphs (A) through (G) or the regulations issued under subparagraph (H), that are described in the mitigation plan of a State or community; and
- (J) without regard to the requirements under paragraphs (1) and (2) of subsection (d), and if the State applied for and was awarded at least \$1,000,000 in grants available under this section in the prior fiscal year, technical assistance to communities to identify eligible activities, to develop grant applications, and to implement grants awarded under this section, not to exceed \$50,000 to any 1 State in any fiscal year.

(4) Eligibility of demolition and rebuilding of properties

The Administrator shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood elevation or greater, if required by the Administrator or if required by any State regulation or local ordinance, and in accordance with criteria established by the Administrator.

(d) Matching requirement

The Administrator may provide grants for eligible mitigation activities as follows:

(1) Severe repetitive loss structures

In the case of mitigation activities to severe repetitive loss structures, in an amount up to—

- (A) 100 percent of all eligible costs, if the activities are approved under subsection (c)(2)(A)(i); or
- (B) the expected savings to the National Flood Insurance Fund from expected avoided damages through acquisition or relocation activities, if the activities are approved under subsection (c)(2)(A)(ii).

(2) Repetitive loss structures

In the case of mitigation activities to repetitive loss structures, in an amount up to 90 percent of all eligible costs.

(3) Other mitigation activities

In the case of all other mitigation activities, in an amount up to 75 percent of all eligible costs.

(e) Recapture

(1) Noncompliance with plan

If the Administrator determines that a State or community that has received mitigation assistance under this section has not carried out the mitigation activities as set forth in the mitigation plan, the Administrator shall recapture any unexpended amounts and deposit the amounts in the National Flood Mitigation Fund under section 4104d of this title.

(2) Failure to provide matching funds

If the Administrator determines that a State or community that has received mitigation assistance under this section has not provided matching funds in the amount required under subsection (d) of this section, the Administrator shall recapture any unexpended amounts of mitigation assistance exceeding the amount of such matching funds actually provided and deposit the amounts in the National Flood Mitigation Fund under section 4104d of this title.

(f) Reports

Not later than 1 year after July 6, 2012, and biennially thereafter, the Administrator shall submit a report to the Congress describing the status of mitigation activities carried out with assistance provided under this section.

(g) Failure to make grant award within 5 years

For any application for a grant under this section for which the Administrator fails to make a grant award within 5 years of the date of the application, the grant application shall be considered to be denied and any funding amounts allocated for such grant applications shall remain in the National Flood Mitigation Fund under section 4104d of this title and shall be made available for grants under this section.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Community

The term “community” means—

(A) a political subdivision that—

- (i) has zoning and building code jurisdiction over a particular area having special flood hazards; and
- (ii) is participating in the national flood insurance program; or

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

(2) Repetitive loss structure

The term “repetitive loss structure” has the meaning given such term in section 4121 of this title.

(3) Severe repetitive loss structure

The term “severe repetitive loss structure” means a structure that—

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

(B) has incurred flood-related damage—

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

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

(Pub. L. 90–448, title XIII, §1366, as added Pub. L. 103–325, title V, §553(a), Sept. 23, 1994, 108 Stat. 2270; amended Pub. L. 108–264, title I, §103(a)–(c), (e), (f), June 30, 2004, 118 Stat. 721, 722; Pub. L. 112–95, title VIII, §815(b), Feb. 14, 2012, 126 Stat. 125; Pub. L. 112–141, div. F, title II, §§100225(a), 100238(b)(1), July 6, 2012, 126 Stat. 938, 958.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (h)(3)(A), (B)(i), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

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

Pub. L. 112–141, §100225(a)(3), substituted “Such financial assistance shall be made available—” for “Such financial assistance shall be made available to States and communities in the form of grants under subsection (b) of this section for planning assistance and in the form of grants under this section for carrying out mitigation activities.” and added pars. (1) to (3).

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

Pub. L. 112–141, §100225(a)(4), substituted “provides for reduction of” for “and provides protection against” and inserted “, and may be included in a multihazard mitigation plan” after “under this chapter”.

Pub. L. 112–141, §100225(a)(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to mitigation planning assistance grants.

Subsec. (c). Pub. L. 112–141, §100225(a)(2), redesignated subsec. (e) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 112–141, §100238(b)(1), substituted “Administrator shall” for “Director shall”.

Pub. L. 112–141, §100225(a)(5)(A), substituted “Requirement of consistency with approved mitigation plan” for “Use of amounts” in heading and “Amounts provided under this section may be used only for mitigation activities that are consistent with mitigation plans that are approved by the Administrator and identified under paragraph (4).” for “Amounts provided under this section (other than under subsection (b) of this section) may be used only for mitigation activities specified in a mitigation plan approved by the Director under subsection (d) of this section.” in text.

Subsec. (c)(2). Pub. L. 112–141, §100225(a)(5)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The Director may approve only mitigation plans that specify mitigation activities that the Director determines are technically feasible and cost-effective and only such plans that propose activities that are cost-beneficial to the National Flood Mitigation Fund.”

Subsec. (c)(3). Pub. L. 112–141, §100225(a)(5)(D)(i), substituted “Eligible activities under a mitigation plan may” for “The Director shall determine whether mitigation activities described in a mitigation plan submitted under subsection (d) of this section comply with the requirements under paragraph (1). Such activities may” in introductory provisions.

Pub. L. 112–141, §100225(a)(5)(B), (C), redesignated par. (5) as (3) and struck out former par. (3). Prior to amendment, text of par. (3) read as follows: “The Director shall approve mitigation plans meeting the requirements for approval under paragraph (1) that will be most cost-beneficial to the National Flood Mitigation Fund. The Director may approve only mitigation plans that give priority for funding to such properties, or to such subsets of properties, as are in the best interest of the National Flood Insurance Fund.”

Subsec. (c)(3)(C). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

Subsec. (c)(3)(D). Pub. L. 112–141, §100225(a)(5)(D)(iv), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (c)(3)(E). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

Pub. L. 112–141, §100225(a)(5)(D)(ii), (iii), redesignated subpar. (D) as (E) and struck out former subpar. (E) which read as follows: “beach nourishment activities;”.

Subsec. (c)(3)(F), (G). Pub. L. 112–141, §100225(a)(5)(D)(iii), (v), added subpar. (F) and redesignated former subpar. (F) as (G). Former subpar. (G) redesignated (H).

Subsec. (c)(3)(H). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

Pub. L. 112–141, §100225(a)(5)(D)(ii), (iii), redesignated subpar. (G) as (H) and struck out former subpar. (H) which read as follows: “other mitigation activities not described in subparagraphs (A) through (F) or the regulations issued under subparagraph (G), that are described in the mitigation plan of a State or community.”

Subsec. (c)(3)(I), (J). Pub. L. 112–141, §100225(a)(5)(D)(vi), (vii), added subpars. (I) and (J).

Subsec. (c)(4). Pub. L. 112–141, §100225(a)(5)(B), (E), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “In providing grants under this subsection for mitigation activities, the Director shall give first priority for funding to such properties, or to such subsets of such properties as the Director may establish, that the Director determines are in the best interests of the National Flood Insurance Fund and for which matching amounts under subsection (f) of this section are available.”

Subsec. (c)(5). Pub. L. 112–141, §100225(a)(5)(C), redesignated par. (5) as (3).

Subsec. (c)(6). Pub. L. 112–141, §100225(a)(5)(E), struck out par. (6). Text read as follows: “The Director shall consider as an eligible activity the demolition and rebuilding of properties to at least base flood levels or higher, if required by the Director or if required by any State or local ordinance, and in accordance with project implementation criteria established by the Director.”

Subsec. (d). Pub. L. 112–141, §100225(a)(1), (6), added subsec. (d) and struck out former subsec. (d) which related to notification of mitigation plan approval and grant award.

Subsec. (e). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” wherever appearing.

Pub. L. 112–141, §100225(a)(2), redesignated subsec. (i) as (e). Former subsec. (e) redesignated (c).

Subsec. (e)(2). Pub. L. 112–141, §100225(a)(7), substituted “required under subsection (d)” for “certified under subsection (g)” and “the amount” for “3 times the amount”.

Subsec. (e)(6). Pub. L. 112–95 added par. (6).

Subsec. (f). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

Pub. L. 112–141, §100225(a)(8), substituted “July 6, 2012” for “September 23, 1994”.

Pub. L. 112–141, §100225(a)(1), (2), redesignated subsec. (j) as (f) and struck out former subsec. (f) which related to limitations on amount of mitigation assistance during any 5-year period.

Subsecs. (g), (h). Pub. L. 112–141, §100225(a)(1), (9), added subsecs. (g) and (h) and struck out former subsecs. (g) and (h) which related to the matching requirement for mitigation assistance and oversight of recipients of mitigation assistance, respectively.

Subsecs. (i), (j). Pub. L. 112–141, §100225(a)(2), redesignated subsecs. (i) and (j) as (e) and (f), respectively.

Subsecs. (k), (m). Pub. L. 112–141, §100225(a)(1), struck out subsecs. (k) and (m) which defined “community” for purposes of this section and which related to encouraging and improving participation in the national flood insurance program, respectively.

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

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

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

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

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

REGULATIONS

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

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency

relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4104d. National Flood Mitigation Fund

(a) Establishment and availability

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

(b) Credits

The National Flood Mitigation Fund shall be credited with—

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

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

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

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

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

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

(c) Administrative expenses

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

(d) Prohibition on offsetting collections

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

(e) Continued availability and reallocation

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

(f) Investment

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

(g) Report

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

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

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

September 23, 1994, referred to in subsec. (g), was in the original “the date of enactment of this Act”, which was translated as meaning the date of enactment of Pub. L. 103–325, which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

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

(a) Initial notification

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

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

After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Administrator that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by flood-works or other flood control methods. The Administrator may, in his discretion, grant a public hearing to any community with respect to which conflicting data

exist as to the nature and extent of a flood hazard. If the Administrator decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Administrator's final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

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

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

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

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

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

The Administrator is authorized to establish administrative procedures whereby the identification under this section of one or more areas in the community as having special flood hazards may be appealed to the Administrator by the community or any owner or lessee of real property within the community who believes his property has been inadvertently included in a special flood hazard area by the identification. When, incident to any appeal under this subsection, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Administrator shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Administrator in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection not to exceed \$250,000.

(Pub. L. 93-234, title II, §201, Dec. 31, 1973, 87 Stat. 982; Pub. L. 95-128, title VII, §704(d), Oct. 12, 1977, 91 Stat. 1146; Pub. L. 98-181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98-479, title II, §204(j), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 112-141, div. F, title II, §100238(a), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, as amended, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Subsecs. (a) to (c), (e). Pub. L. 112-141 substituted “Administrator” for “Director” and “Administrator's” for “Director's” wherever appearing.

1984—Subsec. (e). Pub. L. 98-479 struck out quotation marks before “\$250,000”.

1983—Subsecs. (a) to (c), (e). Pub. L. 98-181 substituted “Director” for “Secretary” and “Director's” for “Secretary's” wherever appearing.

1977—Subsec. (e). Pub. L. 95-128 added subsec. (e).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4106. Nonparticipation in flood insurance program

(a) Prohibition against Federal approval of financial assistance

No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the Administrator as an area having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program.

(b) Notification of purchaser or lessee of property in flood hazard area of availability of Federal disaster relief assistance in event of a flood disaster

In addition to the requirements of section 4104a of this title, each Federal entity for lending regulation shall by regulation require the regulated lending institutions described in such section, and each Federal agency lender shall issue regulations requiring the Federal agency lender, described in such section to notify (as a condition of making, increasing, extending, or renewing any loan secured by property described in such section) the purchaser or lessee of such property of whether, in the event of a disaster caused by flood to such property, Federal disaster relief assistance will be available to such property.

(Pub. L. 93–234, title II, §202, Dec. 31, 1973, 87 Stat. 982; Pub. L. 94–50, title III, §303, July 2, 1975, 89 Stat. 256; Pub. L. 94–198, Dec. 31, 1975, 89 Stat. 1116; Pub. L. 94–375, §14(a), Aug. 3, 1976, 90 Stat. 1075; Pub. L. 95–128, title VII, §703(a), Oct. 12, 1977, 91 Stat. 1144; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §511(b), Sept. 23, 1994, 108 Stat. 2256; Pub. L. 112–141, div. F, title II, §100238(a)(1), July 6, 2012, 126 Stat. 958.)

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–141 substituted “Administrator” for “Director”.

1994—Subsec. (b). Pub. L. 103–325 substituted “Federal entity for lending regulation shall by regulation require the regulated lending institutions described in such section, and each Federal agency lender shall issue regulations requiring the Federal agency lender,” for “Federal instrumentality described in such section shall by regulation require the institutions”.

1983—Subsec. (a). Pub. L. 98–181 substituted “Director” for “Secretary”.

1977—Subsec. (b). Pub. L. 95–128 substituted provisions respecting notification of purchaser or lessee of property in flood hazards area of availability of Federal disaster relief assistance in the event of a flood disaster for prior provisions relating to: Federal regulations against loans by financial institutions, unaffected pre-March 1, 1976, residences, small business concerns, improvements under \$5,000 and nonresidential farm improvement.

1976—Subsec. (b). Pub. L. 94–375 incorporated provision regarding any loan made prior to March 1, 1976, to finance the acquisition of a previously occupied residential dwelling into cl. (1) as so designated, added remainder of cl. (1), and cls. (2) to (4).

1975—Subsec. (b). Pub. L. 94–198 substituted “March 1, 1976” for “January 1, 1976”.

Pub. L. 94–50 inserted provision excepting from the prohibition of this section any loan made prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency

Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951 set out as a note under section 4321 of this title.

§4107. Consultation with local officials; scope

In carrying out his responsibilities under the provisions of this title ¹ and the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.] which relate to notification to and identification of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the Administrator shall establish procedures assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the program has been suspended. Such consultation shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Administrator concerning the nature and purpose of the study, the areas involved, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The Administrator shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study.

(Pub. L. 93–234, title II, §206, Dec. 31, 1973, 87 Stat. 983; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(a)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This title, referred to in text, means title II of Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, as amended, which enacted sections 4105 to 4107 and 4128 of this title and amended section 4101 of this title and sections 24 and 1709–1 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

The National Flood Insurance Act of 1968, referred to in text, is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to this chapter (§4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” wherever appearing.

1983—Pub. L. 98–181 substituted “Director” for “Secretary” wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management

Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

¹ See References in Text note below.

SUBCHAPTER IV—GENERAL PROVISIONS

§4121. Definitions

(a) As used in this chapter—

(1) the term “flood” shall have such meaning as may be prescribed in regulations of the Administrator, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;

(2) the terms “United States” (when used in a geographic sense) and “State” includes the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands;

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

(4) the term “insurance adjustment organization” includes any organizations and persons engaged in the business of adjusting loss claims arising under insurance policies issued by any insurance company or other insurer;

(5) the term “person” includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons, including State and local governments and agencies thereof;

(6) the term “Administrator” means the Administrator of the Federal Emergency Management Agency;

(7) the term “repetitive loss structure” means a structure covered by a contract for flood insurance that—

(A) has incurred flood-related damage on 2 occasions, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event; and

(B) at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.¹

(8) the term “Federal agency lender” means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

(9) the term “Federal entity for lending regulation” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

(10) the term “improved real estate” means real estate upon which a building is located;

(11) the term “lender” means a regulated lending institution or Federal agency lender;

(12) the term “natural and beneficial floodplain functions” means—

(A) the functions associated with the natural or relatively undisturbed floodplain that (i) moderate flooding, retain flood waters, reduce erosion and sedimentation, and mitigate the effect of waves and storm surge from storms, and (ii) reduce flood related damage; and

(B) ancillary beneficial functions, including maintenance of water quality and recharge of ground water, that reduce flood related damage;

(13) the term “regulated lending institution” means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation;

(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 Administrator, or by a community ordinance, whichever is lower.

(b) The term “flood” shall also include inundation from mudslides which are proximately caused by accumulations of water on or under the ground; and all of the provisions of this chapter shall apply with respect to such mud-slides in the same manner and to the same extent as with respect to floods described in subsection (a)(1) of this section, subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Administrator may prescribe to achieve (with respect to such mudslides) the purposes of this chapter and the objectives of the program.

(c) The term “flood” shall also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, and all of the provisions of this chapter shall apply with respect to such collapse or subsidence in the same manner and to the same extent as with respect to floods described in subsection (a)(1) of this section, subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Administrator may prescribe to achieve (with respect to such collapse or subsidence) the purposes of this chapter and the objectives of the program.

(Pub. L. 90–448, title XIII, §1370, Aug. 1, 1968, 82 Stat. 588; Pub. L. 91–152, title IV, §409(b), Dec. 24, 1969, 83 Stat. 397; Pub. L. 93–234, title I, §§107, 108(b), Dec. 31, 1973, 87 Stat. 979, 980; Pub. L. 98–181, title I [title IV, §451(d)(1), (8)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 100–628, title X, §1086(b), Nov. 7, 1988, 102 Stat. 3278; Pub. L. 103–325, title V, §512(a), Sept. 23, 1994, 108 Stat. 2256; Pub. L. 108–264, title I, §105(b), June 30, 2004, 118 Stat. 723; Pub. L. 112–141, div. F, title II, §§100232(d)(5), 100238(b)(1), (3), July 6, 2012, 126 Stat. 954, 958.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Securities Exchange Act of 1934, referred to in subsec. (a)(3), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

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

Subsec. (a)(3). Pub. L. 112–141, §100232(d)(5), substituted “include any organization or person that is authorized to engage in the business of insurance under the laws of any State, subject to the reporting requirements of the Securities Exchange Act of 1934 pursuant to section 13(a) or 15(d) of such Act (15 U.S.C. 78m(a) and 78o(d)), or authorized by the Administrator to assume reinsurance on risks insured by the flood insurance program;” for “include any organizations and persons authorized to engage in the insurance business under the laws of any State;”.

Subsec. (a)(6). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director” in two places.

Subsec. (a)(9). Pub. L. 112–141, §100238(b)(3), struck out “the Office of Thrift Supervision,” after “the Comptroller of the Currency,”.

Subsecs. (a)(15), (b), (c). Pub. L. 112–141, §100238(b)(1), substituted “Administrator” for “Director”.

2004—Subsec. (a)(7). Pub. L. 108–264, §105(b)(1), added par. (7) and struck out former par. (7) which read as follows: “the term ‘repetitive loss structure’ means a structure covered by a contract for flood insurance under this chapter that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event;”.

Subsec. (a)(15). Pub. L. 108–264, §105(b)(2)–(4), added par. (15).

1994—Subsec. (a)(7) to (14). Pub. L. 103–325 added pars. (7) to (14).

1988—Subsecs. (b), (c). Pub. L. 100–628 substituted “subsection (a)(1) of this section” for “paragraph (1)”.

1983—Subsec. (a)(1). Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary”.

Subsec. (a)(6). Pub. L. 98–181, §451(d)(8), substituted definition of “Director” as the Director of the Federal Emergency Management Agency for definition of “Secretary” as the Secretary of Housing and Urban Development.

Subsecs. (b), (c). Pub. L. 98–181, §451(d)(1), substituted “Director” for “Secretary”.

1973—Subsec. (b). Pub. L. 93–234, §107, inserted “proximately” before “caused”.

Subsec. (c). Pub. L. 93–234, §108(b), added subsec. (c).

1969—Pub. L. 91–152 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

¹ *So in original. The period probably should be a semicolon.*

§4122. Studies of other natural disasters; cooperation and consultation with other departments and agencies

(a) The Administrator is authorized to undertake such studies as may be necessary for the purpose of determining the extent to which insurance protection against earthquakes or any other natural disaster perils, other than flood, is not available from public or private sources, and the feasibility of such insurance protection being made available.

(b) Studies under this section shall be carried out, to the maximum extent practicable, with the cooperation of other Federal departments and agencies and State and local agencies, and the Administrator is authorized to consult with, receive information from, and enter into any necessary agreements or other arrangements with such other Federal departments and agencies (on a reimbursement basis) and such State and local agencies.

(Pub. L. 90–448, title XIII, §1371, Aug. 1, 1968, 82 Stat. 588; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” in subsecs. (a) and (b).

1983—Pub. L. 98–181 substituted “Director” for “Secretary” in subsecs. (a) and (b).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency

relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

STUDY OF SINKHOLE INSURANCE

Pub. L. 98–181, title I [title IV, §453], Nov. 30, 1983, 97 Stat. 1230, permitted the Director of the Federal Emergency Management Agency to make a grant to a nonprofit organization, educational institution, or State or local agency to study the feasibility of expanding the national flood insurance program to cover damage or loss arising from sinkholes and authorized appropriations.

§4123. Advance payments

Any payments under this chapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Administrator may determine.

(Pub. L. 90–448, title XIII, §1372, Aug. 1, 1968, 82 Stat. 589; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director”.

1983—Pub. L. 98–181 substituted “Director” for “Secretary”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4124. Applicability of fiscal controls

The provisions of chapter 91 of title 31 shall apply to the program authorized under this chapter to the same extent as they apply to wholly owned Government corporations.

(Pub. L. 90–448, title XIII, §1373, Aug. 1, 1968, 82 Stat. 589; Pub. L. 98–479, title II, §203(j)(3), Oct. 17, 1984, 98 Stat. 2231.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1984—Pub. L. 98–479 substituted “chapter 91 of title 31” for “the Government Corporation Control Act”.

§4125. Finality of certain financial transactions

Notwithstanding the provisions of any other law—

- (1) any financial transaction authorized to be carried out under this chapter, and
- (2) any payment authorized to be made or to be received in connection with any such financial transaction,

shall be final and conclusive upon all officers of the Government.

(Pub. L. 90–448, title XIII, §1374, Aug. 1, 1968, 82 Stat. 589.)

REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

§4126. Administrative expenses

Any administrative expenses which may be sustained by the Federal Government in carrying out the flood insurance and floodplain management programs authorized under this chapter may be paid with amounts from the National Flood Insurance Fund (as provided under section 4017(a)(4) of this title), subject to approval in appropriations Acts.

(Pub. L. 90–448, title XIII, §1375, Aug. 1, 1968, 82 Stat. 589; Pub. L. 101–508, title II, §2302(e)(4), Nov. 5, 1990, 104 Stat. 1388–25.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101–508 substituted “and floodplain management programs authorized under this chapter may be paid with amounts from the National Flood Insurance Fund (as provided under section 4017(a)(4) of this title), subject to approval in appropriations Acts” for “program authorized under this chapter may be paid out of appropriated funds”.

§4127. Authorization of appropriations; availability

(a) There are hereby authorized to be appropriated such sums as may from time to time be necessary to carry out this chapter, including sums—

- (1) to cover administrative expenses authorized under section 4126 of this title;
- (2) to reimburse the National Flood Insurance Fund established under section 4017 of this title for—
 - (A) premium equalization payments under section 4054 of this title which have been made from such fund;and
 - (B) reinsurance claims paid under the excess loss reinsurance coverage provided under section 4055 of this title; and

(3) to make such other payments as may be necessary to carry out the purposes of this chapter.

(b) All such funds shall be available without fiscal year limitation.

(c) There are authorized to be appropriated such sums as may be necessary through the date specified in section 4026 of this title, for studies under this chapter.

(Pub. L. 90–448, title XIII, §1376, Aug. 1, 1968, 82 Stat. 589; Pub. L. 94–375, §14(c), Aug. 3, 1976, 90 Stat. 1075;

Pub. L. 95–128, title VII, §702, Oct. 12, 1977, 91 Stat. 1144; Pub. L. 95–557, title III, §309, Oct. 31, 1978, 92 Stat. 2098; Pub. L. 96–153, title VI, §602(c), Dec. 21, 1979, 93 Stat. 1137; Pub. L. 96–399, title III, §304, Oct. 8, 1980, 94 Stat. 1639; Pub. L. 97–35, title III, §341(a), Aug. 13, 1981, 95 Stat. 418; Pub. L. 98–181, title I [title IV, §451(c)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 100–242, title V, §543, Feb. 5, 1988, 101 Stat. 1940; Pub. L. 101–137, §4, Nov. 3, 1989, 103 Stat. 825; Pub. L. 104–204, title III, Sept. 26, 1996, 110 Stat. 2915; Pub. L. 105–65, title III, Oct. 27, 1997, 111 Stat. 1377; Pub. L. 105–276, title III, Oct. 21, 1998, 112 Stat. 2503; Pub. L. 106–74, title III, Oct. 20, 1999, 113 Stat. 1088; Pub. L. 106–377, §1(a)(1) [title III], Oct. 27, 2000, 114 Stat. 1441, 1441A–47; Pub. L. 107–73, title III, Nov. 26, 2001, 115 Stat. 689; Pub. L. 108–3, §2(a)(4), Jan. 13, 2003, 117 Stat. 7; Pub. L. 108–171, §2(a)(4), Dec. 6, 2003, 117 Stat. 2064; Pub. L. 108–199, div. H, §136(a)(4), Jan. 23, 2004, 118 Stat. 442; Pub. L. 108–264, title I, §101(d), June 30, 2004, 118 Stat. 714.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original a reference to “this title” meaning title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–264 substituted “through the date specified in section 4026 of this title, for studies under this chapter.” for “through the date specified in section 4026 of this title, for studies under this chapter. Any amount appropriated under this subsection shall remain available until expended.”

Pub. L. 108–199 made amendment identical to that made by Pub. L. 108–171. See 2003 Amendment note below.

2003—Subsec. (c). Pub. L. 108–171 substituted “the date specified in section 4026 of this title” for “December 31, 2003”.

Pub. L. 108–3 substituted “December 31, 2003” for “December 31, 2002”.

2001—Subsec. (c). Pub. L. 107–73 substituted “2002” for “2001”.

2000—Subsec. (c). Pub. L. 106–377 substituted “December 31, 2001” for “September 30, 2000”.

1999—Subsec. (c). Pub. L. 106–74 substituted “2000” for “1999”.

1998—Subsec. (c). Pub. L. 105–276 substituted “1999” for “1998”.

1997—Subsec. (c). Pub. L. 105–65 substituted “such sums as may be necessary through September 30, 1998, for studies under this chapter” for “for studies under this chapter not to exceed \$36,283,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991”.

1996—Subsec. (c). Pub. L. 104–204, which directed amendment of first sentence by substituting “such sums as may be necessary through September 30, 1997 for studies under this chapter.” for “this subsection” and all that follows, could not be executed because phrase “this subsection” does not appear in first sentence.

1989—Subsec. (c). Pub. L. 101–137 substituted provisions authorizing appropriations of not to exceed \$36,283,000 for fiscal year 1990 and such sums as may be necessary for fiscal year 1991 for provisions authorizing appropriations of \$37,000,000 for fiscal year 1988, and \$37,000,000 for fiscal year 1989.

1988—Subsec. (c). Pub. L. 100–242 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “There are authorized to be appropriated for studies under this chapter not to exceed \$100,000,000 for the fiscal year 1977, not to exceed \$108,000,000 for the fiscal year 1978, not to exceed \$114,000,000 for the fiscal year 1979, not to exceed \$74,000,000 for the fiscal year 1980, not to exceed \$61,600,000 for the fiscal year 1981, not to exceed \$42,600,000 for the fiscal year 1982, not to exceed \$49,752,000 for the fiscal year 1984, and such sums as may be necessary for fiscal year 1985.”

1983—Subsec. (c). Pub. L. 98–181 inserted “not to exceed \$49,752,000 for the fiscal year 1984, and such sums as may be necessary for fiscal year 1985”.

1981—Subsec. (c). Pub. L. 97–35 authorized appropriation of not to exceed \$42,600,000 for fiscal year 1982.

1980—Subsec. (c). Pub. L. 96–399 authorized appropriation of not to exceed \$61,600,000 for fiscal year 1981.

1979—Subsec. (c). Pub. L. 96–153 authorized appropriation of \$74,000,000 for fiscal year 1980.

1978—Subsec. (c). Pub. L. 95–557 substituted “not to exceed \$108,000,000 for the fiscal year 1978, and not to exceed \$114,000,000 for the fiscal year 1979” for “and not to exceed \$108,000,000 for the fiscal year 1978”.

1977—Subsec. (c). Pub. L. 95–128 authorized appropriation of \$108,000,000 for fiscal year 1978.

1976—Subsec. (c). Pub. L. 94–375 added subsec. (c).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–199 considered to have taken effect on Dec. 31, 2003, see section 136(b) of div. H of Pub. L. 108–199, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 2003 AMENDMENTS

Amendment by Pub. L. 108–171 effective Dec. 31, 2003, see section 2(b) of Pub. L. 108–171, set out as a note under section 4016 of this title.

Amendment by Pub. L. 108–3 effective Dec. 31, 2002, see section 2(b) of Pub. L. 108–3, set out as a note under section 4016 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

§4128. Rules and regulations

(a) The Administrator is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of publicly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions, shall, in cooperation with the Administrator, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act.

(Pub. L. 93–234, title II, §205, Dec. 31, 1973, 87 Stat. 983; Pub. L. 98–181, title I [title IV, §451(e)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112–141, div. F, title II, §100238(a)(1), July 6, 2012, 126 Stat. 958.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, as amended, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Flood Disaster Protection Act of 1973, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

2012—Pub. L. 112–141 substituted “Administrator” for “Director” in subsecs (a) and (b).

1983—Pub. L. 98–181 substituted “Director” for “Secretary” in subsecs. (a) and (b).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as

a note under section 542 of Title 6.

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of this title.

§4129. Federal Insurance Administrator; establishment of position

There is hereby established in the Federal Emergency Management Agency the position of Federal Insurance Administrator.

(Pub. L. 90–448, title XI, §1105(a), Aug. 1, 1968, 82 Stat. 567; Pub. L. 96–153, title VI, §603(a), Dec. 21, 1979, 93 Stat. 1138.)

CODIFICATION

Section was formerly classified to section 3533a of this title.

Section was enacted as part of the Urban Property Protection and Reinsurance Act of 1968 and also as part of the Housing and Urban Development Act of 1968, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

AMENDMENTS

1979—Pub. L. 96–153 substituted “Federal Emergency Management Agency” for “Department of Housing and Urban Development”.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4130. No cause of action

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

(Pub. L. 112–141, div. F, title II, §100249, July 6, 2012, 126 Stat. 969.)

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle A (§§100201–100249) of title II of div. F of Pub. L. 112–141, known as the Biggert-Waters Flood Insurance Reform Act of 2012. For complete classification of this subtitle to the Code, see Short Title of 2012 Amendment note set out under section 4001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP–21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.