

In the Senate of the United States,

May 13, 2008.

Resolved, That the bill from the House of Representatives (H.R. 3121) entitled “An Act to restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from windstorms and floods, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 SECTION 1. TABLE OF CONTENTS.

2 *The table of contents for this Act is as follows:*

Sec. 1. Table of contents.

TITLE I—FLOOD INSURANCE REFORM AND MODERNIZATION

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Definitions.

Sec. 104. Extension of National Flood Insurance Program.

Sec. 105. Availability of insurance for multifamily properties.

Sec. 106. Reform of premium rate structure.

Sec. 107. Mandatory coverage areas.

Sec. 108. Premium adjustment.

Sec. 109. State chartered financial institutions.

Sec. 110. Enforcement.

Sec. 111. Escrow of flood insurance payments.

Sec. 112. Borrowing authority debt forgiveness.

- Sec. 113. Minimum deductibles for claims under the National Flood Insurance Program.*
- Sec. 114. Considerations in determining chargeable premium rates.*
- Sec. 115. Reserve fund.*
- Sec. 116. Repayment plan for borrowing authority.*
- Sec. 117. Payment of condominium claims.*
- Sec. 118. Technical Mapping Advisory Council.*
- Sec. 119. National Flood Mapping Program.*
- Sec. 120. Removal of limitation on State contributions for updating flood maps.*
- Sec. 121. Coordination.*
- Sec. 122. Interagency coordination study.*
- Sec. 123. Nonmandatory participation.*
- Sec. 124. Notice of flood insurance availability under RESPA.*
- Sec. 125. Testing of new flood proofing technologies.*
- Sec. 126. Participation in State disaster claims mediation programs.*
- Sec. 127. Reiteration of FEMA responsibilities under the 2004 Reform Act.*
- Sec. 128. Additional authority of FEMA to collect information on claims payments.*
- Sec. 129. Expense reimbursements of insurance companies.*
- Sec. 130. Extension of pilot program for mitigation of severe repetitive loss properties.*
- Sec. 131. Flood insurance advocate.*
- Sec. 132. Studies and Reports.*
- Sec. 133. Feasibility study on private reinsurance.*
- Sec. 134. Policy disclosures.*
- Sec. 135. Report on inclusion of building codes in floodplain management criteria.*

*TITLE II—COMMISSION ON NATURAL CATASTROPHE RISK
MANAGEMENT AND INSURANCE*

- Sec. 201. Short title.*
- Sec. 202. Findings.*
- Sec. 203. Establishment.*
- Sec. 204. Membership.*
- Sec. 205. Duties of the Commission.*
- Sec. 206. Report.*
- Sec. 207. Powers of the Commission.*
- Sec. 208. Commission personnel matters.*
- Sec. 209. Termination.*
- Sec. 210. Authorization of appropriations.*

TITLE III—MISCELLANEOUS

- Sec. 301. Big Sioux River and Skunk Creek, Sioux Falls, South Dakota.*
- Sec. 302. Suspension of petroleum acquisition for Strategic Petroleum Reserve.*

1 **TITLE I—FLOOD INSURANCE**
2 **REFORM AND MODERNIZATION**

3 **SEC. 101. SHORT TITLE.**

4 *This title may be cited as the “Flood Insurance Reform*
5 *and Modernization Act of 2008”.*

6 **SEC. 102. FINDINGS.**

7 *Congress finds that—*

8 (1) *the flood insurance claims resulting from the*
9 *hurricane season of 2005 will likely exceed all pre-*
10 *vious claims paid by the National Flood Insurance*
11 *Program;*

12 (2) *in order to pay the legitimate claims of pol-*
13 *icyholders from the hurricane season of 2005, the Fed-*
14 *eral Emergency Management Agency has borrowed*
15 *over \$20,000,000,000 from the Treasury;*

16 (3) *the interest alone on this debt, is almost*
17 *\$1,000,000,000 annually, and that the Federal Emer-*
18 *gency Management Agency has indicated that it will*
19 *be unable to pay back this debt;*

20 (4) *the flood insurance program must be*
21 *strengthened to ensure it can pay future claims;*

22 (5) *while flood insurance is mandatory in the*
23 *100-year floodplain, substantial flooding occurs out-*
24 *side of existing special flood hazard areas;*

1 (6) recent events throughout the country involv-
2 ing areas behind man-made structures, known as “re-
3 sidual risk” areas, have produced catastrophic losses;

4 (7) although such man-made structures produce
5 an added element of safety and therefore lessen the
6 probability that a disaster will occur, they are never-
7 theless susceptible to catastrophic loss, even though
8 such areas at one time were not included within the
9 100-year floodplain; and

10 (8) voluntary participation in the National
11 Flood Insurance Program has been minimal and
12 many families residing outside the 100-year flood-
13 plain remain unaware of the potential risk to their
14 lives and property.

15 **SEC. 103. DEFINITIONS.**

16 (a) *IN GENERAL.*—In this title, the following defini-
17 tions shall apply:

18 (1) *DIRECTOR.*—The term “Director” means the
19 Administrator of the Federal Emergency Management
20 Agency.

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

1 (3) *100-YEAR FLOODPLAIN.*—*The term “100-year*
2 *floodplain” means that area which is subject to inun-*
3 *dation from a flood having a 1 percent chance of*
4 *being equaled or exceeded in any given year.*

5 (4) *500-YEAR FLOODPLAIN.*—*The term “500-year*
6 *floodplain” means that area which is subject to inun-*
7 *dation from a flood having a 0.2 percent chance of*
8 *being equaled or exceeded in any given year.*

9 (5) *WRITE YOUR OWN.*—*The term “Write Your*
10 *Own” means the cooperative undertaking between the*
11 *insurance industry and the Flood Insurance Adminis-*
12 *tration which allows participating property and cas-*
13 *ualty insurance companies to write and service stand-*
14 *ard flood insurance policies.*

15 (b) *COMMON TERMINOLOGY.*—*Except as otherwise pro-*
16 *vided in this title, any terms used in this title shall have*
17 *the meaning given to such terms under section 1370 of the*
18 *National Flood Insurance Act of 1968 (42 U.S.C. 4121).*

19 **SEC. 104. EXTENSION OF NATIONAL FLOOD INSURANCE**
20 **PROGRAM.**

21 *Section 1319 of the National Flood Insurance Act of*
22 *1968 (42 U.S.C. 4026), is amended by striking “2008” and*
23 *inserting “2013.”*

1 **SEC. 105. AVAILABILITY OF INSURANCE FOR MULTIFAMILY**
 2 **PROPERTIES.**

3 *Section 1305 of the National Flood Insurance Act of*
 4 *1968 (42 U.S.C. 4012) is amended by adding at the end*
 5 *the following:*

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

8 “(1) *IN GENERAL.—The Director shall make*
 9 *flood insurance available to cover residential prop-*
 10 *erties of more than 4 units. Notwithstanding any*
 11 *other provision of law, the maximum coverage*
 12 *amount that the Director may make available under*
 13 *this subsection to such residential properties shall be*
 14 *equal to the coverage amount made available to com-*
 15 *mercial properties.*

16 “(2) *RULE OF CONSTRUCTION.—Nothing in this*
 17 *subsection shall be construed to limit the ability of in-*
 18 *dividuals residing in residential properties of more*
 19 *than 4 units to obtain insurance for the contents and*
 20 *personal articles located in such residences.”.*

21 **SEC. 106. REFORM OF PREMIUM RATE STRUCTURE.**

22 (a) *TO EXCLUDE CERTAIN PROPERTIES FROM RE-*
 23 *CEIVING SUBSIDIZED PREMIUM RATES.—*

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

1 (A) in subsection (a)—

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

4 (ii) in paragraph (3), by striking the
5 period at the end and inserting “; and”;
6 and

7 (iii) by adding at the end the fol-
8 lowing:

9 “(4) the exclusion of prospective insureds from
10 purchasing flood insurance at rates less than those es-
11 timated under paragraph (1), as required by para-
12 graph (2), for certain properties, including for—

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

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

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

21 “(D) any business property; and

22 “(E) any property which on or after the
23 date of enactment of the Flood Insurance Reform
24 and Modernization Act of 2008 has experienced
25 or sustained—

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

4 “(ii) substantial improvement exceed-
5 ing 30 percent of the fair market value of
6 such property.”; and

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

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

13 “(1) any property not insured by the flood insur-
14 ance program as of the date of enactment of the *Flood*
15 *Insurance Reform and Modernization Act of 2008*;

16 “(2) any policy under the flood insurance pro-
17 gram that has lapsed in coverage, as a result of the
18 deliberate choice of the holder of such policy; and

19 “(3) any prospective insured who refuses to ac-
20 cept any offer for mitigation assistance by the Ad-
21 ministrators (including an offer to relocate), including
22 an offer of mitigation assistance—

23 “(A) following a major disaster, as defined
24 in section 102 of the *Robert T. Stafford Disaster*

1 *Relief and Emergency Assistance Act (42 U.S.C.*
2 *5122); or*

3 “(B) *in connection with—*

4 “(i) *a repetitive loss property; or*

5 “(ii) *a severe repetitive loss property,*
6 *as that term is defined under section*
7 *1361A.”.*

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

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

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

16 “*under this title for any properties—*

17 “(1) *within any single”; and*

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

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

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

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

3 **SEC. 107. MANDATORY COVERAGE AREAS.**

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

9 *(b) RESIDUAL RISK AREAS.—The regulations required*
10 *by subsection (a) shall—*

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

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

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

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

1 (2) *LIMITATION.*—*The mandatory purchase re-*
2 *quirement under paragraph (1) shall have no force or*
3 *effect until the mapping of all residual risk areas in*
4 *the United States that the Director determines essen-*
5 *tial in order to administer the National Flood Insur-*
6 *ance Program, as required under section 119, are in*
7 *the maintenance phase.*

8 (3) *ACCURATE PRICING.*—*In carrying out the*
9 *mandatory purchase requirement under paragraph*
10 *(1), the Director shall ensure that the price of flood*
11 *insurance policies in areas of residual risk accurately*
12 *reflects the level of flood protection provided by any*
13 *levee, dam, or other the man-made structure in such*
14 *area.*

15 (d) *DECERTIFICATION.*—*Upon decertification of any*
16 *levee, dam, or man-made structure under the jurisdiction*
17 *of the Army Corp of Engineers, the Corp shall immediately*
18 *provide notice to the Director of the National Flood Insur-*
19 *ance Program.*

20 **SEC. 108. PREMIUM ADJUSTMENT.**

21 *Section 1308 of the National Flood Insurance Act of*
22 *1968 (42 U.S.C. 4015) is amended by adding at the end*
23 *the following:*

24 “(g) *PREMIUM ADJUSTMENT TO REFLECT CURRENT*
25 *RISK OF FLOOD.*—*Notwithstanding subsection (f), and*

1 upon completion of the updating of any flood insurance rate
2 map under this Act, the Flood Disaster Protection Act of
3 1973, or the Flood Insurance Reform and Modernization
4 Act of 2008, any property located in an area that is partici-
5 pating in the national flood insurance program shall have
6 the risk premium rate charged for flood insurance on such
7 property adjusted to accurately reflect the current risk of
8 flood to such property, subject to any other provision of this
9 Act. Any increase in the risk premium rate charged for
10 flood insurance on any property that is covered by a flood
11 insurance policy on the date of completion of such updating
12 or remapping that is a result of such updating or remap-
13 ping shall be phased in over a 2-year period at the rate
14 of 50 percent per year.

15 “(h) *USE OF MAPS TO ESTABLISH RATES FOR CER-*
16 *TAIN COUNTIES.*—

17 “(1) *IN GENERAL.*—Until such time as the up-
18 *dating of flood insurance rate maps under section 19*
19 *of the Flood Modernization Act of 2007 is completed*
20 *(as determined by the district engineer) for all areas*
21 *located in the St. Louis District of the Mississippi*
22 *Valley Division of the Corps of Engineers, the Direc-*
23 *tor shall not—*

24 “(A) *adjust the chargeable premium rate for*
25 *flood insurance under this title for any type or*

1 *class of property located in an area in that Dis-*
 2 *trict; and*

3 “(B) *require the purchase of flood insurance*
 4 *for any type or class of property located in an*
 5 *area in that District not subject to such purchase*
 6 *requirement prior to the updating of such na-*
 7 *tional flood insurance program rate map.*

8 “(2) *RULE OF CONSTRUCTION.—For purposes of*
 9 *this subsection, the term ‘area’ does not include any*
 10 *area (or subdivision thereof) that has chosen not to*
 11 *participate in the flood insurance program under this*
 12 *title as of the date of enactment of this subsection.”.*

13 **SEC. 109. STATE CHARTERED FINANCIAL INSTITUTIONS.**

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

16 (1) *in paragraph (1), by striking “; and” and*
 17 *inserting a semicolon;*

18 (2) *in paragraph (2), by striking the period at*
 19 *the end and inserting “; and”; and*

20 (3) *by adding at the end the following:*

21 “(3) *given satisfactory assurance that by Decem-*
 22 *ber 31, 2008, lending institutions chartered by a*
 23 *State, and not insured by the Federal Deposit Insur-*
 24 *ance Corporation, shall be subject to regulations by*
 25 *that State that are consistent with the requirements*

1 of section 102 of the Flood Disaster Protection Act of
2 1973 (42 U.S.C. 4012a).”.

3 **SEC. 110. ENFORCEMENT.**

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

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

8 (2) by striking the second sentence.

9 **SEC. 111. ESCROW OF FLOOD INSURANCE PAYMENTS.**

10 (a) *IN GENERAL.*—Section 102(d) of the Flood Dis-
11 aster Protection Act of 1973 (42 U.S.C. 4012a(d)) is
12 amended—

13 (1) by amending paragraph (1) to read as fol-
14 lows:

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

16 “(A) *FEDERAL ENTITIES RESPONSIBLE FOR*
17 *LENDING REGULATIONS.*—Each Federal entity
18 for lending regulation (after consultation and co-
19 ordination with the Federal Financial Institu-
20 tions Examination Council) shall, by regulation,
21 direct that any premiums and fees for flood in-
22 surance under the National Flood Insurance Act
23 of 1968, on any property for which a loan has
24 been made for acquisition or construction pur-
25 poses, shall be paid to the mortgage lender, with

1 *the same frequency as payments on the loan are*
2 *made, for the duration of the loan. Upon receipt*
3 *of any premiums or fees, the lender shall deposit*
4 *such premiums and fees in an escrow account on*
5 *behalf of the borrower. Upon receipt of a notice*
6 *from the Director or the provider of the flood in-*
7 *surance that insurance premiums are due, the*
8 *remaining balance of an escrow account shall be*
9 *paid to the provider of the flood insurance.*

10 “(B) *STATE ENTITIES RESPONSIBLE FOR*
11 *LENDING REGULATIONS.—In order to continue to*
12 *participate in the flood insurance program, each*
13 *State shall direct that its entity or agency with*
14 *primary responsibility for the supervision of*
15 *lending institutions in that State require that*
16 *premiums and fees for flood insurance under the*
17 *National Flood Insurance Act of 1968, on any*
18 *property for which a loan has been made for ac-*
19 *quisition or construction purposes shall be paid*
20 *to the mortgage lender, with the same frequency*
21 *as payments on the loan are made, for the dura-*
22 *tion of the loan. Upon receipt of any premiums*
23 *or fees, the lender shall deposit such premiums*
24 *and fees in an escrow account on behalf of the*
25 *borrower. Upon receipt of a notice from such*

1 *State entity or agency, the Director, or the pro-*
2 *vider of the flood insurance that insurance pre-*
3 *miums are due, the remaining balance of an es-*
4 *crow account shall be paid to the provider of the*
5 *flood insurance.”; and*

6 *(2) by adding at the end the following:*

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

15 *(b) APPLICABILITY.*—*The amendment made by sub-*
16 *section (a)(1) shall apply to any mortgage outstanding or*
17 *entered into on or after the expiration of the 2-year period*
18 *beginning on the date of enactment of this title.*

19 **SEC. 112. BORROWING AUTHORITY DEBT FORGIVENESS.**

20 *(a) IN GENERAL.*—*The Secretary of the Treasury re-*
21 *linquishes the right to any repayment of amounts due from*
22 *the Director in connection with the exercise of the authority*
23 *vested to the Director to borrow such sums under section*
24 *1309 of the National Flood Insurance Act of 1968 (42*
25 *U.S.C. 4016), to the extent such borrowed sums were used*

1 to fund the payment of flood insurance claims under the
2 National Flood Insurance Program for any damage to or
3 loss of property resulting from the hurricanes of 2005.

4 (b) *CERTIFICATION.*—The debt forgiveness described
5 under subsection (a) shall only take effect if the Director
6 certifies to the Secretary of Treasury that all authorized re-
7 sources or funds available to the Director to operate the Na-
8 tional Flood Insurance Program—

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

11 (2) are not otherwise available to make pay-
12 ments to the Secretary on any outstanding notes or
13 obligations issued by the Director and held by the
14 Secretary.

15 (c) *DECREASE IN BORROWING AUTHORITY.*—The first
16 sentence of subsection (a) of section 1309 of the National
17 Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amend-
18 ed by striking “; except that, through September 30, 2008,
19 clause (2) of this sentence shall be applied by substituting
20 ‘\$20,775,000,000’ for ‘\$1,500,000,000’”.

21 **SEC. 113. MINIMUM DEDUCTIBLES FOR CLAIMS UNDER THE**
22 **NATIONAL FLOOD INSURANCE PROGRAM.**

23 Section 1312 of the National Flood Insurance Act of
24 1968 (42 U.S.C. 4019) is amended—

1 (1) *by striking “The Director is” and inserting*
2 *the following:*

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

4 (2) *by adding at the end the following:*

5 “(b) *MINIMUM ANNUAL DEDUCTIBLE.—*

6 “(1) *PRE-FIRM PROPERTIES.—For any structure*
7 *which is covered by flood insurance under this title,*
8 *and on which construction or substantial improve-*
9 *ment occurred on or before December 31, 1974, or be-*
10 *fore the effective date of an initial flood insurance*
11 *rate map published by the Director under section*
12 *1360 for the area in which such structure is located,*
13 *the minimum annual deductible for damage to such*
14 *structure shall be—*

15 “(A) *\$1,500, if the flood insurance coverage*
16 *for such structure covers loss of, or physical dam-*
17 *age to, such structure in an amount equal to or*
18 *less than \$100,000; and*

19 “(B) *\$2,000, if the flood insurance coverage*
20 *for such structure covers loss of, or physical dam-*
21 *age to, such structure in an amount greater than*
22 *\$100,000.*

23 “(2) *POST-FIRM PROPERTIES.—For any struc-*
24 *ture which is covered by flood insurance under this*
25 *title, and on which construction or substantial im-*

1 *provement occurred after December 31, 1974, or after*
 2 *the effective date of an initial flood insurance rate*
 3 *map published by the Director under section 1360 for*
 4 *the area in which such structure is located, the min-*
 5 *imum annual deductible for damage to such structure*
 6 *shall be—*

7 *“(A) \$750, if the flood insurance coverage*
 8 *for such structure covers loss of, or physical dam-*
 9 *age to, such structure in an amount equal to or*
 10 *less than \$100,000; and*

11 *“(B) \$1,000, if the flood insurance coverage*
 12 *for such structure covers loss of, or physical dam-*
 13 *age to, such structure in an amount greater than*
 14 *\$100,000.”.*

15 **SEC. 114. CONSIDERATIONS IN DETERMINING CHARGEABLE**
 16 **PREMIUM RATES.**

17 *Section 1308 of the National Flood Insurance Act of*
 18 *1968 (42 U.S.C. 4015(b)) is amended—*

19 *(1) in subsection (a), by striking “, after con-*
 20 *sultation with” and all that follows through “by regu-*
 21 *lation” and inserting “prescribe, after providing no-*
 22 *tice”;*

23 *(2) in subsection (b)—*

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

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

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

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

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

8 “(5) adequate, on the basis of accepted actuarial
9 principles, to cover the average historical loss year ob-
10 ligations incurred by the National Flood Insurance
11 Fund.”; and

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

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

15 “(1) includes catastrophic loss years; and

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

18 **SEC. 115. RESERVE FUND.**

19 Chapter I of the National Flood Insurance Act of 1968
20 (42 U.S.C. 4011 et seq.) is amended by inserting after sec-
21 tion 1310 the following:

22 **“SEC. 1310A. RESERVE FUND.**

23 “(a) *ESTABLISHMENT OF RESERVE FUND.*—In car-
24 rying out the flood insurance program authorized by this
25 chapter, the Director shall establish in the Treasury of the

1 *United States a National Flood Insurance Reserve Fund*
2 *(in this section referred to as the ‘Reserve Fund’) which*
3 *shall—*

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

6 “(2) *be available for meeting the expected future*
7 *obligations of the flood insurance program.*

8 “(b) *RESERVE RATIO.—Subject to the phase-in re-*
9 *quirements under subsection (d), the Reserve Fund shall*
10 *maintain a balance equal to—*

11 “(1) *1 percent of the sum of the total potential*
12 *loss exposure of all outstanding flood insurance poli-*
13 *cies in force in the prior fiscal year; or*

14 “(2) *such higher percentage as the Director deter-*
15 *mines to be appropriate, taking into consideration*
16 *any circumstance that may raise a significant risk of*
17 *substantial future losses to the Reserve Fund.*

18 “(c) *MAINTENANCE OF RESERVE RATIO.—*

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

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

1 “(B) to achieve such reserve ratio, if the ac-
2 tual balance of such reserve is below the amount
3 required under subsection (b).

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

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

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

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

13 “(D) any other factor that the Director de-
14 termines appropriate.

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

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

22 “(1) *IN GENERAL.*—Beginning in fiscal year
23 2008 and not ending until the fiscal year in which
24 the ratio required under subsection (b) is achieved, in
25 each such fiscal year the Director shall place in the

1 *Reserve Fund an amount equal to not less than 7.5*
2 *percent of the reserve ratio required under subsection*
3 *(b).*

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

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

16 “(e) *LIMITATION ON RESERVE RATIO.*—*In any given*
17 *fiscal year, if the Director determines that the reserve ratio*
18 *required under subsection (b) cannot be achieved, the Direc-*
19 *tor shall submit a report to Congress that—*

20 “(1) *describes and details the specific concerns of*
21 *the Director regarding such consequences;*

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

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

3 **SEC. 116. REPAYMENT PLAN FOR BORROWING AUTHORITY.**

4 Section 1309 of the National Flood Insurance Act of
5 1968 (42 U.S.C. 4016) is amended by adding at the end
6 the following:

7 “(c) Any funds borrowed by the Director under the au-
8 thority established in subsection (a) shall include a schedule
9 for repayment of such amounts which shall be transmitted
10 to the—

11 “(1) Secretary of the Treasury;

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

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

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

23 “(1) Secretary of the Treasury;

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

1 “(3) *Committee on Financial Services of the*
2 *House of Representatives.*”.

3 **SEC. 117. PAYMENT OF CONDOMINIUM CLAIMS.**

4 *Section 1312 of the National Flood Insurance Act of*
5 1968 (42 U.S.C. 4019), as amended by section 113, is fur-
6 *ther amended by adding at the end the following:*

7 “(c) *PAYMENT OF CLAIMS TO CONDOMINIUM OWN-*
8 *ERS.—The Director may not deny payment for any damage*
9 *to or loss of property which is covered by flood insurance*
10 *to condominium owners who purchased such flood insur-*
11 *ance separate and apart from the flood insurance purchased*
12 *by the condominium association in which such owner is a*
13 *member, based, solely or in any part, on the flood insurance*
14 *coverage of the condominium association or others on the*
15 *overall property owned by the condominium association.*
16 *Notwithstanding any regulations, rules, or restrictions es-*
17 *tablished by the Director relating to appeals and filing*
18 *deadlines, the Director shall ensure that the requirements*
19 *of this subsection are met with respect to any claims for*
20 *damages resulting from flooding in 2005 and 2006.*”.

21 **SEC. 118. TECHNICAL MAPPING ADVISORY COUNCIL.**

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

25 (b) *MEMBERSHIP.—*

1 (1) *IN GENERAL.*—*The Council shall consist of*
2 *the Director, or the designee thereof, and 12 addi-*
3 *tional members to be appointed by the Director or the*
4 *designee of the Director, who shall be—*

5 (A) *the Under Secretary of Commerce for*
6 *Oceans and Atmosphere (or the designee thereof);*

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

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

11 (D) *a member of a recognized professional*
12 *engineering association or organization;*

13 (E) *a member of a recognized professional*
14 *association or organization representing flood*
15 *hazard determination firms;*

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

18 (G) *a representative of a recognized profes-*
19 *sional association or organization representing*
20 *State geographic information;*

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

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

1 *(J) the Secretary of the Interior (or the des-*
2 *ignee thereof);*

3 *(K) the Secretary of Agriculture (or the des-*
4 *ignee thereof);*

5 *(L) a member of a recognized regional flood*
6 *and storm water management organization;*

7 *(M) a representative of a State agency that*
8 *has entered into a cooperating technical partner-*
9 *ship with the Director and has demonstrated the*
10 *capability to produce flood insurance rate maps;*
11 *and*

12 *(N) a representative of a local government*
13 *agency that has entered into a cooperating tech-*
14 *nical partnership with the Director and has*
15 *demonstrated the capability to produce flood in-*
16 *surance rate maps.*

17 (2) *QUALIFICATIONS.—Members of the Council*
18 *shall be appointed based on their demonstrated knowl-*
19 *edge and competence regarding surveying, cartog-*
20 *raphy, remote sensing, geographic information sys-*
21 *tems, or the technical aspects of preparing and using*
22 *flood insurance rate maps.*

23 (c) *DUTIES.—The Council shall—*

24 (1) *recommend to the Director how to improve in*
25 *a cost-effective manner the—*

1 (A) accuracy, general quality, ease of use,
2 and distribution and dissemination of flood in-
3 surance rate maps and risk data; and

4 (B) performance metrics and milestones re-
5 quired to effectively and efficiently map flood
6 risk areas in the United States;

7 (2) recommend to the Director mapping stand-
8 ards and guidelines for—

9 (A) flood insurance rate maps; and

10 (B) data accuracy, data quality, data cur-
11 rency, and data eligibility;

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

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

17 (5) recommend to the Director and other Federal
18 agencies participating in the Council—

19 (A) methods for improving interagency and
20 intergovernmental coordination on flood map-
21 ping and flood risk determination; and

22 (B) a funding strategy to leverage and co-
23 ordinate budgets and expenditures across Federal
24 agencies; and

1 (6) *submit an annual report to the Director that*
2 *contains—*

3 (A) *a description of the activities of the*
4 *Council;*

5 (B) *an evaluation of the status and per-*
6 *formance of flood insurance rate maps and map-*
7 *ping activities to revise and update flood insur-*
8 *ance rate maps, as required under section 119;*
9 *and*

10 (C) *a summary of recommendations made*
11 *by the Council to the Director.*

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

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

17 (A) *develop recommendations on how to—*

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

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

24 (I) *the rise in the sea level; and*

1 (ii) *future development on flood*
2 *risk; and*

3 (B) *not later than 1 year after the date of*
4 *enactment of this title, prepare written rec-*
5 *ommendations in a future conditions risk assess-*
6 *ment and modeling report and to submit such*
7 *recommendations to the Director.*

8 (2) *RESPONSIBILITY OF THE DIRECTOR.—The*
9 *Director, as part of the ongoing program to review*
10 *and update National Flood Insurance Program rate*
11 *maps under section 119, shall incorporate any future*
12 *risk assessment submitted under paragraph (1)(B) in*
13 *any such revision or update.*

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

17 (f) *COORDINATION.—To ensure that the Council’s rec-*
18 *ommendations are consistent, to the maximum extent prac-*
19 *ticable, with national digital spatial data collection and*
20 *management standards, the Chairperson shall consult with*
21 *the Chairperson of the Federal Geographic Data Committee*
22 *(established pursuant to OMB Circular A–16).*

23 (g) *COMPENSATION.—Members of the Council shall re-*
24 *ceive no additional compensation by reason of their service*
25 *on the Council.*

1 (h) *MEETINGS AND ACTIONS.*—

2 (1) *IN GENERAL.*—*The Council shall meet not*
3 *less frequently than twice each year at the request of*
4 *the Chairperson or a majority of its members, and*
5 *may take action by a vote of the majority of the mem-*
6 *bers.*

7 (2) *INITIAL MEETING.*—*The Director, or a person*
8 *designated by the Director, shall request and coordi-*
9 *nate the initial meeting of the Council.*

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

13 (j) *STAFF.*—

14 (1) *STAFF OF FEMA.*—*Upon the request of the*
15 *Chairperson, the Director may detail, on a non-*
16 *reimbursable basis, personnel of the Federal Emer-*
17 *gency Management Agency to assist the Council in*
18 *carrying out its duties.*

19 (2) *STAFF OF OTHER FEDERAL AGENCIES.*—
20 *Upon request of the Chairperson, any other Federal*
21 *agency that is a member of the Council may detail,*
22 *on a non-reimbursable basis, personnel to assist the*
23 *Council in carrying out its duties.*

24 (k) *POWERS.*—*In carrying out this section, the Coun-*
25 *cil may hold hearings, receive evidence and assistance, pro-*

1 *vide information, and conduct research, as it considers ap-*
 2 *propriate.*

3 (l) *REPORT TO CONGRESS.*—*The Director, on an an-*
 4 *nual basis, shall report to the Committee on Banking,*
 5 *Housing, and Urban Affairs of the Senate, the Committee*
 6 *on Financial Services of the House of Representatives, and*
 7 *the Office of Management and Budget on the—*

8 (1) *recommendations made by the Council; and*
 9 (2) *actions taken by the Federal Emergency*
 10 *Management Agency to address such recommenda-*
 11 *tions to improve flood insurance rate maps and flood*
 12 *risk data.*

13 **SEC. 119. NATIONAL FLOOD MAPPING PROGRAM.**

14 (a) *REVIEWING, UPDATING, AND MAINTAINING*
 15 *MAPS.*—*The Director, in coordination with the Technical*
 16 *Mapping Advisory Council established under section 118,*
 17 *shall establish an ongoing program under which the Direc-*
 18 *tor shall review, update, and maintain National Flood In-*
 19 *surance Program rate maps in accordance with this section.*

20 (b) *MAPPING.*—

21 (1) *IN GENERAL.*—*In carrying out the program*
 22 *established under subsection (a), the Director shall—*
 23 (A) *identify, review, update, maintain, and*
 24 *publish National Flood Insurance Program rate*
 25 *maps with respect to—*

1 (i) all areas located within the 100-
2 year floodplain;

3 (ii) all areas located within the 500-
4 year floodplain;

5 (iii) areas of residual risk that have
6 not previously been identified, including
7 areas that are protected levees, dams, and
8 other man-made structures; and

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

12 (v) the level of protection provided by
13 man-made structures.

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

19 (C) use, in identifying, reviewing, updating,
20 maintaining, or publishing any National Flood
21 Insurance Program rate map required under this
22 section or under the National Flood Insurance
23 Act of 1968, the most accurate topography and
24 elevation data available.

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

3 (A) *GROUND ELEVATION DATA.*—*Assess the*
4 *accuracy of current ground elevation data used*
5 *for hydrologic and hydraulic modeling of flood-*
6 *ing sources and mapping of the flood hazard and*
7 *wherever necessary acquire new ground elevation*
8 *data utilizing the most up-to-date geospatial*
9 *technologies in accordance with the existing*
10 *guidelines and specifications of the Federal*
11 *Emergency Management Agency.*

12 (B) *DATA ON A WATERSHED BASIS.*—*De-*
13 *velop National Flood Insurance Program flood*
14 *data on a watershed basis—*

15 (i) *to provide the most technically ef-*
16 *fective and efficient studies and hydrologic*
17 *and hydraulic modeling; and*

18 (ii) *to eliminate, to the maximum ex-*
19 *tent possible, discrepancies in base flood ele-*
20 *vations between adjacent political subdivi-*
21 *sions.*

22 (3) *OTHER INCLUSIONS.*—*In updating maps*
23 *under this section, the Director shall include—*

24 (A) *any relevant information on coastal in-*
25 *undation from—*

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

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

6 (B) any relevant information of the United
7 States Geological Survey on stream flows, water-
8 shed characteristics, and topography that is use-
9 ful in the identification of flood hazard areas, as
10 determined by the Director;

11 (C) any relevant information on land sub-
12 sidence, coastal erosion areas, and other floor-re-
13 lated hazards;

14 (D) any relevant information or data of the
15 National Oceanic and Atmospheric Administra-
16 tion and the United States Geological Survey re-
17 lating to the best available climate science and
18 the potential for future inundation from sea level
19 rise, increased precipitation, and increased in-
20 tensity of hurricanes due to global warming; and

21 (E) any other relevant information as may
22 be recommended by the Technical Mapping Advi-
23 sory Committee.

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

- 1 (1) *establish standards to—*
- 2 (A) *ensure that maps are adequate for—*
- 3 (i) *flood risk determinations; and*
- 4 (ii) *use by State and local governments*
- 5 *in managing development to reduce the risk*
- 6 *of flooding; and*
- 7 (B) *facilitate identification and use of con-*
- 8 *sistent methods of data collection and analysis*
- 9 *by the Director, in conjunction with State and*
- 10 *local governments, in developing maps for com-*
- 11 *munities with similar flood risks, as determined*
- 12 *by the Director; and*
- 13 (2) *publish maps in a format that is—*
- 14 (A) *digital geospatial data compliant;*
- 15 (B) *compliant with the open publishing and*
- 16 *data exchange standards established by the Open*
- 17 *Geospatial Consortium; and*
- 18 (C) *compliant with the North American*
- 19 *Vertical Datum of 1998 for New Hydrologic and*
- 20 *Hydraulic Engineering.*
- 21 (d) *COMMUNICATION AND OUTREACH.—*
- 22 (1) *IN GENERAL.—The Director shall—*
- 23 (A) *work to enhance communication and*
- 24 *outreach to States, local communities, and prop-*
- 25 *erty owners about the effects of—*

1 (i) any potential changes to National
2 Flood Insurance Program rate maps that
3 may result from the mapping program re-
4 quired under this section; and

5 (ii) that any such changes may have
6 on flood insurance purchase requirements;
7 and

8 (B) engage with local communities to en-
9 hance communication and outreach to the resi-
10 dents of such communities on the matters de-
11 scribed under subparagraph (A).

12 (2) *REQUIRED ACTIVITIES.*—The communication
13 and outreach activities required under paragraph (1)
14 shall include—

15 (A) notifying property owners when their
16 properties become included in, or when they are
17 excluded from, an area having special flood haz-
18 ards and the effect of such inclusion or exclusion
19 on the applicability of the mandatory flood in-
20 surance purchase requirement under section 102
21 of the Flood Disaster Protection Act of 1973 (42
22 U.S.C. 4012a) to such properties;

23 (B) educating property owners regarding
24 the flood risk and reduction of this risk in their
25 community, including the continued flood risks

1 to areas that are no longer subject to the flood
2 insurance mandatory purchase requirement;

3 (C) educating property owners regarding
4 the benefits and costs of maintaining or acquiring
5 flood insurance, including, where applicable,
6 lower-cost preferred risk policies under the Na-
7 tional Flood Insurance Act of 1968 (42 U.S.C.
8 4011 *et seq.*) for such properties and the contents
9 of such properties;

10 (D) educating property owners about flood
11 map revisions and the process available such
12 owners to appeal proposed changes in flood ele-
13 vations through their community; and

14 (E) encouraging property owners to main-
15 tain or acquire flood insurance coverage.

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

20 **SEC. 120. REMOVAL OF LIMITATION ON STATE CONTRIBU-**
21 **TIONS FOR UPDATING FLOOD MAPS.**

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

1 **SEC. 121. COORDINATION.**

2 *(a) INTERAGENCY BUDGET CROSSCUT REPORT.—*

3 *(1) IN GENERAL.—The Secretary of Homeland*
4 *Security, the Director, the Director of the Office of*
5 *Management and Budget, and the heads of each Fed-*
6 *eral department or agency carrying out activities*
7 *under sections 118 and 119 shall work together to en-*
8 *sure that flood risk determination data and geospatial*
9 *data are shared among Federal agencies in order to*
10 *coordinate the efforts of the Nation to reduce its vul-*
11 *nerability to flooding hazards.*

12 *(2) REPORT.—Not later than 30 days after the*
13 *submission of the budget of the United States Govern-*
14 *ment by the President to Congress, the Director of the*
15 *Office of Management and Budget, in coordination*
16 *with the Federal Emergency Management Agency, the*
17 *United States Geological Survey, the National Oce-*
18 *anic and Atmospheric Administration, the Corps of*
19 *Engineers, and other Federal agencies, as appro-*
20 *priate, shall submit to the appropriate authorizing*
21 *and appropriating committees of the Senate and the*
22 *House of Representatives a financial report, certified*
23 *by the Secretary or head of each such agency, an*
24 *interagency budget crosscut report that displays the*
25 *budget proposed for each of the Federal agencies work-*
26 *ing on flood risk determination data and digital ele-*

1 *vation models, including any planned interagency or*
2 *intraagency transfers.*

3 *(b) DUTIES OF THE DIRECTOR.—In carrying out sec-*
4 *tions 118 and 119, the Director shall—*

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

10 *(2) coordinate with, seek assistance and coopera-*
11 *tion of, and provide liaison to the Federal Geographic*
12 *Data Committee pursuant to Office of Management*
13 *and Budget Circular A–16 and Executive Order*
14 *12906 for the implementation of and compliance with*
15 *such standards;*

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

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

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

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

5 **SEC. 122. INTERAGENCY COORDINATION STUDY.**

6 *(a) IN GENERAL.—The Director shall enter into a con-*
7 *tract with the National Academy of Public Administration*
8 *to conduct a study on how the Federal Emergency Manage-*
9 *ment Agency—*

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

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

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

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

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

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

5 **SEC. 123. NONMANDATORY PARTICIPATION.**

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

12 (b) *NOTICE.—*

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

17 (2) *TIMING OF NOTICE.—The notice required*
18 *under paragraph (1) shall be made not later than 6*
19 *months after the date of completion of the initial*
20 *mapping of the 500-year floodplain, as required*
21 *under section 118.*

22 (3) *LENDER REQUIRED NOTICE.—*

23 (A) *REGULATED LENDING INSTITUTIONS.—*
24 *Each Federal or State entity for lending regula-*
25 *tion (after consultation and coordination with*

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

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

23 *(C) PENALTY FOR NONCOMPLIANCE.—Any*
24 *regulated lending institution or Federal or State*
25 *agency lender that fails to comply with the no-*

1 *tice requirements established by this paragraph*
2 *shall be subject to the penalties prescribed under*
3 *section 102(f)(5) of the Flood Disaster Protection*
4 *Act of 1973 (42 U.S.C. 4012a(f)(5)).*

5 **SEC. 124. NOTICE OF FLOOD INSURANCE AVAILABILITY**
6 **UNDER RESPA.**

7 *Section 5(b) of the Real Estate Settlement Procedures*
8 *Act of 1974 (12 U.S.C. 2604(b)) is amended—*

9 (1) *in paragraph (4), by striking “; and” and*
10 *inserting a semicolon;*

11 (2) *in paragraph (5), by striking the period and*
12 *inserting “; and”; and*

13 (3) *by adding at the end the following:*

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

19 **SEC. 125. TESTING OF NEW FLOODPROOFING TECH-**
20 **NOLOGIES.**

21 (a) *PERMISSIBLE TESTING.*—*A temporary residential*
22 *structure built for the purpose of testing a new flood proof-*
23 *ing technology, as described in subsection (b), in any State*
24 *or community that receives mitigation assistance under sec-*
25 *tion 1366 of the National Flood Insurance Act of 1968 (42*

1 *U.S.C. 4104c) may not be construed to be in violation of*
2 *any flood risk mitigation plan developed by that State or*
3 *community and approved by the Director of the Federal*
4 *Emergency Management Agency.*

5 (b) *CONDITIONS ON TESTING.—Testing permitted*
6 *under subsection (a) shall—*

7 (1) *be performed on an uninhabited residential*
8 *structure;*

9 (2) *require dismantling of the structure at the*
10 *conclusion of such testing; and*

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

15 (c) *RULE OF CONSTRUCTION.—Nothing in this section*
16 *shall be construed to alter, limit, or extend the availability*
17 *of flood insurance to any structure that may employ, uti-*
18 *lize, or apply any technology tested under subsection (b).*

19 **SEC. 126. PARTICIPATION IN STATE DISASTER CLAIMS ME-**
20 **DIATION PROGRAMS.**

21 *Chapter I of the National Flood Insurance Act of 1968*
22 *(42 U.S.C. 4011 et seq.) is amended by inserting after sec-*
23 *tion 1313 the following:*

1 **“SEC. 1314. PARTICIPATION IN STATE DISASTER CLAIMS**
2 **MEDIATION PROGRAMS.**

3 “(a) *REQUIREMENT TO PARTICIPATE.*—*In the case of*
4 *the occurrence of a major disaster, as defined in section 102*
5 *of the Robert T. Stafford Disaster Relief and Emergency*
6 *Assistance Act (42 U.S.C. 5122) that may have resulted in*
7 *flood damage under the flood insurance program established*
8 *under this chapter and other personal lines residential*
9 *property insurance coverage offered by a State regulated in-*
10 *surer, upon request made by the insurance commissioner*
11 *of a State (or such other official responsible for regulating*
12 *the business of insurance in the State) for the participation*
13 *of representatives of the Director in a program sponsored*
14 *by such State for nonbinding mediation of insurance claims*
15 *resulting from a major disaster, the Director shall cause*
16 *representatives of the flood insurance program to partici-*
17 *pate in such a State program where claims under the flood*
18 *insurance program are involved to expedite settlement of*
19 *flood damage claims resulting from such disaster.*

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

23 “(1) *be certified for purposes of the flood insur-*
24 *ance program to settle claims against such program*
25 *resulting from such disaster in amounts up to the*
26 *limits of policies under such program;*

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

5 “(3) participate in good faith negotiations to-
6 ward the settlement of such claims with policyholders
7 of coverage made available under the flood insurance
8 program; and

9 “(4) finalize the settlement of such claims on be-
10 half of the flood insurance program with such policy-
11 holders.

12 “(c) *COORDINATION.*—Representatives of the Director
13 shall at all times coordinate their activities with insurance
14 officials of the State and representatives of insurers for the
15 purposes of consolidating and expediting settlement of
16 claims under the national flood insurance program result-
17 ing from such disaster.

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

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

1 “(B) an active member of such bar for at least
2 1 year prior to the year in which such mediator’s
3 participation is sought; or

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

9 “(e) *MEDIATION PROCEEDINGS AND DOCUMENTS*
10 *PRIVILEGED.*—As a condition of participation, all state-
11 *ments made and documents produced pursuant to State-*
12 *sponsored mediation involving representatives of the Direc-*
13 *tor shall be deemed privileged and confidential settlement*
14 *negotiations made in anticipation of litigation.*

15 “(f) *LIABILITY, RIGHTS, OR OBLIGATIONS NOT AF-*
16 *FECTED.*—Participation in State-sponsored mediation, as
17 *described in this section does not—*

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

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

22 “(A) in any regulation issued by the Direc-
23 tor, including any regulation relating to a
24 standard flood insurance policy;

25 “(B) under this Act; and

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

3 “(g) *EXCLUSIVE FEDERAL JURISDICTION.*—Participa-
4 tion in State-sponsored mediation shall not alter, change,
5 or modify the original exclusive jurisdiction of United
6 States courts, as set forth in this Act.

7 “(h) *COST LIMITATION.*—Nothing in this section shall
8 be construed to require the Director or a representative of
9 the Director to pay additional mediation fees relating to
10 flood insurance claims associated with a State-sponsored
11 mediation program in which such representative of the Di-
12 rector participates.

13 “(i) *EXCEPTION.*—In the case of the occurrence of a
14 major disaster that results in flood damage claims under
15 the national flood insurance program and that does not re-
16 sult in any loss covered by a personal lines residential prop-
17 erty insurance policy—

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

19 “(2) the provisions of the standard flood insur-
20 ance policy under the national flood insurance pro-
21 gram and the appeals process established under sec-
22 tion 205 of the *Bunning-Bereuter-Blumenauer Flood*
23 *Insurance Reform Act of 2004* (42 U.S.C. 4011 note)
24 and the regulations issued pursuant to such section
25 shall apply exclusively.

1 “(j) *REPRESENTATIVES OF THE DIRECTOR.*—For pur-
2 poses of this section, the term ‘representatives of the Direc-
3 tor’ means representatives of the national flood insurance
4 program who participate in the appeals process established
5 under section 205 of the Bunning-Bereuter-Blumenauer
6 Flood Insurance Reform Act of 2004 (42 U.S.C. 4011
7 note).”.

8 **SEC. 127. REITERATION OF FEMA RESPONSIBILITIES**
9 **UNDER THE 2004 REFORM ACT.**

10 (a) *MINIMUM TRAINING AND EDUCATION REQUIRE-*
11 *MENTS.*—The Director shall continue to work with the in-
12 surance industry, State insurance regulators, and other in-
13 terested parties to implement the minimum training and
14 education standards for all insurance agents who sell flood
15 insurance policies, as such standards were determined by
16 the Director in the notice published in the Federal Register
17 on September 1, 2005 (70 Fed. Reg. 52117) pursuant to
18 section 207 of the Bunning-Bereuter-Blumenauer Flood In-
19 surance Reform Act of 2004 (42 U.S.C. 4011 note).

20 (b) *REPORT ON THE OVERALL IMPLEMENTATION OF*
21 *THE REFORM ACT OF 2004.*—Not later than 3 months after
22 the date of the enactment of this title, the Director shall
23 submit a report to Congress—

24 (1) describing the implementation of each provi-
25 sion of the Bunning-Bereuter-Blumenauer Flood In-

1 *urance Reform Act of 2004 (Public Law 108–264;*
2 *118 Stat. 712);*

3 *(2) identifying each regulation, order, notice,*
4 *and other material issued by the Director in imple-*
5 *menting each provision of that Act;*

6 *(3) explaining any statutory or implied dead-*
7 *lines that have not been met; and*

8 *(4) providing an estimate of when the require-*
9 *ments of such missed deadlines will be fulfilled.*

10 **SEC. 128. ADDITIONAL AUTHORITY OF FEMA TO COLLECT**
11 **INFORMATION ON CLAIMS PAYMENTS.**

12 *(a) IN GENERAL.—The Director shall collect, from*
13 *property and casualty insurance companies that are au-*
14 *thorized by the Director to participate in the Write Your*
15 *Own program any information and data needed to deter-*
16 *mine the accuracy of the resolution of flood claims filed on*
17 *any property insured with a standard flood insurance pol-*
18 *icy obtained under the program that was subject to a flood.*

19 *(b) TYPE OF INFORMATION TO BE COLLECTED.—The*
20 *information and data to be collected under subsection (a)*
21 *may include—*

22 *(1) any adjuster estimates made as a result of*
23 *flood damage, and if the insurance company also in-*
24 *sure the property for wind damage—*

1 (A) any adjuster estimates for both wind
2 and flood damage;

3 (B) the amount paid to the property owner
4 for wind and flood claims;

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

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

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

14 **SEC. 129. EXPENSE REIMBURSEMENTS OF INSURANCE COM-**
15 **PANIES.**

16 (a) *SUBMISSION OF BIENNIAL REPORTS.*—

17 (1) *TO THE DIRECTOR.*—Not later than 20 days
18 after the date of enactment of this title, each property
19 and casualty insurance company that is authorized
20 by the Director to participate in the Write Your Own
21 program shall submit to the Director any biennial re-
22 port prepared in the prior 5 years by such company.

23 (2) *TO GAO.*—Not later than 10 days after the
24 submission of the biennial reports under paragraph

1 (1), the Director shall submit all such reports to the
2 Comptroller General of the United States.

3 (3) NOTICE TO CONGRESS OF FAILURE TO COM-
4 PLY.—The Director shall notify and report to the
5 Committee on Banking, Housing, and Urban Affairs
6 of the Senate and the Committee on Financial Serv-
7 ices of the House of Representatives on any property
8 and casualty insurance company participating in the
9 Write Your Own program that failed to submit its bi-
10 ennial reports as required under paragraph (1).

11 (4) FAILURE TO COMPLY.—A property and cas-
12 ualty insurance company that is authorized by the
13 Director to participate in the Write Your Own pro-
14 gram which fails to comply with the reporting re-
15 quirement under this subsection or the requirement
16 under section 62.23(j)(1) of title 44, Code of Federal
17 Regulations (relating to biennial audit of the flood in-
18 surance financial statements) shall be subject to a
19 civil penalty in an amount equal to \$1,000 per day
20 for each day that the company remains in noncompli-
21 ance with either such requirement.

22 (b) FEMA RULEMAKING ON EXPENSES OF WYO PRO-
23 GRAM.—Not later than 180 days after the date of enactment
24 of this title, the Director shall conduct a rulemaking pro-
25 ceeding to devise a data collection methodology to allow the

1 *Federal Emergency Management Agency to collect con-*
2 *sistent information on the expenses (including the operating*
3 *and administrative expenses for adjustment of claims) of*
4 *property and casualty insurance companies participating*
5 *in the Write Your Own program for selling, writing, and*
6 *servicing, standard flood insurance policies.*

7 (c) *SUBMISSION OF EXPENSE REPORTS.—Not later*
8 *than 60 days after the effective date of the final rule estab-*
9 *lished pursuant to subsection (b), each property and cas-*
10 *ualty insurance company participating in the Write Your*
11 *Own program shall submit a report to the Director that*
12 *details for the prior 5 years the expense levels of each such*
13 *company for selling, writing, and servicing standard flood*
14 *insurance policies based on the methodologies established*
15 *under subsection (b).*

16 (d) *FEMA RULEMAKING ON REIMBURSEMENT OF EX-*
17 *PENSES UNDER THE WYO PROGRAM.—Not later than 15*
18 *months after the date of enactment of this title, the Director*
19 *shall conduct a rulemaking proceeding to formulate revised*
20 *expense reimbursements to property and casualty insurance*
21 *companies participating in the Write Your Own program*
22 *for their expenses (including their operating and adminis-*
23 *trative expenses for adjustment of claims) in selling, writ-*
24 *ing, and servicing standard flood insurance policies, includ-*
25 *ing how such companies shall be reimbursed in both cata-*

1 *strophic and non-catastrophic years. Such reimbursements*
2 *shall be structured to ensure reimbursements track the ac-*
3 *tual expenses, including standard business costs and oper-*
4 *ating expenses, of such companies as close as practicably*
5 *possible.*

6 (e) *REPORT OF THE DIRECTOR.—Not later than 60*
7 *days after the effective date of any final rule established*
8 *pursuant to subsection (b) or subsection (d), the Director*
9 *shall submit to the Committee on Banking, Housing, and*
10 *Urban Affairs of the Senate and the Committee on Finan-*
11 *cial Services of the House of Representatives a report con-*
12 *taining—*

13 (1) *the specific rationale and purposes of such*
14 *rule;*

15 (2) *the reasons for the adoption of the policies*
16 *contained in such rule; and*

17 (3) *the degree to which such rule accurately rep-*
18 *resents the true operating costs and expenses of prop-*
19 *erty and casualty insurance companies participating*
20 *in the Write Your Own program.*

21 (f) *GAO STUDY AND REPORT ON EXPENSES OF WYO*
22 *PROGRAM.—*

23 (1) *STUDY.—Not later than 180 days after the*
24 *effective date of the final rule established pursuant to*

1 subsection (d), the Comptroller General of the United
2 States shall—

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

6 (B) report to the Committee on Banking,
7 Housing, and Urban Affairs of the Senate and
8 the Committee on Financial Services of the
9 House of Representatives on the findings of the
10 study conducted under subparagraph (A).

11 (2) GAO AUTHORITY.—In conducting the study
12 and report required under paragraph (1), the Comp-
13 troller General—

14 (A) may use any previous findings, studies,
15 or reports that the Comptroller General pre-
16 viously completed on the Write Your Own pro-
17 gram;

18 (B) shall determine if—

19 (i) the final rules established pursuant
20 to subsections (b) and (d) allow the Federal
21 Emergency Management Agency to access
22 adequate information regarding the actual
23 expenses of property and casualty insurance
24 companies participating in the Write Your
25 Own program; and

1 (ii) the actual reimbursements paid
2 out under the final rule established in sub-
3 section (d) accurately reflect the expenses re-
4 ported by property and casualty insurance
5 companies participating in the Write Your
6 Own program, including the standard busi-
7 ness costs and operating expenses of such
8 companies; and

9 (C) shall analyze the effect of such rules on
10 the level of participation of property and cas-
11 ualty insurers in the Write Your Own program.

12 **SEC. 130. EXTENSION OF PILOT PROGRAM FOR MITIGATION**
13 **OF SEVERE REPETITIVE LOSS PROPERTIES.**

14 (a) *IN GENERAL.*—Section 1361A of the National
15 *Flood Insurance Act of 1968 (42 U.S.C. 4102a)* is amend-
16 *ed—*

17 (1) *in subsection (k)(1)—*

18 (A) *in the first sentence, by striking “in*
19 *each of fiscal years 2005, 2006, 2007, 2008, and*
20 *2009” and inserting “in each fiscal year through*
21 *fiscal year 2013”; and*

22 (B) *by adding at the end the following new*
23 *sentence: “For fiscal years 2008 through the*
24 *2013, the total amount that the Director may use*

1 to provide assistance under this section shall not
2 exceed \$240,000,000.”; and

3 (2) by striking subsection (l).

4 (b) *REPORT TO CONGRESS ON IMPLEMENTATION STA-*
5 *TUS.*—Not later than 6 months after the date of enactment
6 of this title, the Director shall report to the Committee on
7 Banking, Housing, and Urban Affairs of the Senate and
8 the Committee on Financial Services of the House of Rep-
9 resentatives on the status of the implementation of the pilot
10 program for severe repetitive loss properties authorized
11 under section 1361A of the National Flood Insurance Act
12 of 1968 (42 U.S.C. 4102a).

13 (c) *RULEMAKING.*—No later than 90 days after the
14 date of enactment of this title, the Director shall issue final
15 rules to carry out the severe repetitive loss pilot program
16 authorized under section 1361A of the National Flood In-
17 surance Act of 1968 (42 U.S.C. 4102a).

18 **SEC. 131. FLOOD INSURANCE ADVOCATE.**

19 Chapter II of the National Flood Insurance Act of
20 1968 is amended by inserting after section 1330 (42 U.S.C.
21 4041) the following new section:

22 **“SEC. 1330A. OFFICE OF THE FLOOD INSURANCE ADVO-**
23 **CATE.**

24 “(a) *ESTABLISHMENT OF POSITION.*—

1 “(1) *IN GENERAL.*—*There shall be in the Federal*
2 *Emergency Management Agency an Office of the*
3 *Flood Insurance Advocate which shall be headed by*
4 *the National Flood Insurance Advocate. The National*
5 *Flood Insurance Advocate shall—*

6 “(A) *to the extent amounts are provided*
7 *pursuant to subsection (n), be compensated at*
8 *the same rate as the highest rate of basic pay es-*
9 *tablished for the Senior Executive Service under*
10 *section 5382 of title 5, United States Code, or,*
11 *if the Director so determines, at a rate fixed*
12 *under section 9503 of such title;*

13 “(B) *be appointed by the Director without*
14 *regard to political affiliation;*

15 “(C) *report to and be under the general su-*
16 *per vision of the Director, but shall not report to,*
17 *or be subject to supervision by, any other officer*
18 *of the Federal Emergency Management Agency;*
19 *and*

20 “(D) *consult with the Assistant Adminis-*
21 *trator for Mitigation or any successor thereto,*
22 *but shall not report to, or be subject to the gen-*
23 *eral supervision by, the Assistant Administrator*
24 *for Mitigation or any successor thereto.*

1 “(2) *QUALIFICATIONS.*—*An individual ap-*
2 *pointed under paragraph (1)(B) shall have a back-*
3 *ground in customer service, or experience representing*
4 *insureds, as well as experience in investigations or*
5 *audits.*

6 “(3) *RESTRICTION ON EMPLOYMENT.*—*An indi-*
7 *vidual may be appointed as the National Flood In-*
8 *surance Advocate only if such individual was not an*
9 *officer or employee of the Federal Emergency Manage-*
10 *ment Agency with duties relating to the national*
11 *flood insurance program during the 2-year period*
12 *ending with such appointment and such individual*
13 *agrees not to accept any employment with the Federal*
14 *Emergency Management Agency for at least 2 years*
15 *after ceasing to be the National Flood Insurance Ad-*
16 *vocate. Service as an employee of the National Flood*
17 *Insurance Advocate shall not be taken into account in*
18 *applying this paragraph.*

19 “(4) *STAFF.*—*To the extent amounts are pro-*
20 *vided pursuant to subsection (n), the National Flood*
21 *Insurance Advocate may employ such personnel as*
22 *may be necessary to carry out the duties of the Office.*

23 “(5) *INDEPENDENCE.*—*The Director shall not*
24 *prevent or prohibit the National Flood Insurance Ad-*
25 *vocate from initiating, carrying out, or completing*

1 *any audit or investigation, or from issuing any sub-*
2 *poena or summons during the course of any audit or*
3 *investigation.*

4 *“(6) REMOVAL.—The President and the Director*
5 *shall have the power to remove, discharge, or dismiss*
6 *the National Flood Insurance Advocate. Not later*
7 *than 15 days after the removal, discharge, or dis-*
8 *missal of the Advocate, the President or the Director*
9 *shall report to the Committee on Banking of the Sen-*
10 *ate and the Committee on Financial Services of the*
11 *House of Representatives on the basis for such re-*
12 *moval, discharge, or dismissal.*

13 *“(b) FUNCTIONS OF OFFICE.—It shall be the function*
14 *of the Office of the Flood Insurance Advocate to—*

15 *“(1) assist injure under the national flood insur-*
16 *ance program in resolving problems with the Federal*
17 *Emergency Management Agency relating to such pro-*
18 *gram;*

19 *“(2) identify areas in which such injure have*
20 *problems in dealings with the Federal Emergency*
21 *Management Agency relating to such program;*

22 *“(3) propose changes in the administrative prac-*
23 *tices of the Federal Emergency Management Agency*
24 *to mitigate problems identified under paragraph (2);*

1 “(4) identify potential legislative, administra-
2 tive, or regulatory changes which may be appropriate
3 to mitigate such problems;

4 “(5) conduct, supervise, and coordinate—

5 “(A) systematic and random audits and in-
6 vestigations of insurance companies and associ-
7 ated entities that sell or offer policies under the
8 National Flood Insurance Program to determine
9 whether such insurance companies or associated
10 entities are allocating only flood losses under
11 such insurance policies to the National Flood In-
12 surance Program; and

13 “(B) audits and investigations to determine
14 if an insurance company or associated entity de-
15 scribed under subparagraph (A) is negotiating
16 on behalf of the National Flood Insurance Pro-
17 gram with third parties in good faith;

18 “(6) conduct, supervise, and coordinate inves-
19 tigations into the operations of the national flood in-
20 surance program for the purpose of—

21 “(A) promoting economy and efficiency in
22 the administration of such program;

23 “(B) preventing and detecting fraud and
24 abuse in the program; and

1 “(C) identifying, and referring to the Attor-
2 ney General for prosecution, any participant in
3 such fraud or abuse; and

4 “(7) identify and investigate conflicts of interest
5 that undermine the economy and efficiency of the na-
6 tional flood insurance program.

7 “(c) *AUTHORITY OF THE NATIONAL FLOOD INSUR-*
8 *ANCE ADVOCATE.—The National Flood Insurance Advocate*
9 *may—*

10 “(1) have access to all records, reports, audits,
11 reviews, documents, papers, recommendations, or
12 other material available to the Director which relate
13 to administration or operation of the national flood
14 insurance program with respect to which the National
15 Flood Insurance Advocate has responsibilities under
16 this section, including information submitted pursu-
17 ant to Section 128 of this Act;

18 “(2) undertake such investigations and reports
19 relating to the administration or operation of the na-
20 tional flood insurance program as are, in the judg-
21 ment of the National Flood Insurance Advocate, nec-
22 essary or desirable;

23 “(3) request such information or assistance as
24 may be necessary for carrying out the duties and re-
25 sponsibilities provided by this section from any Fed-

1 *eral, State, or local governmental agency or unit*
2 *thereof;*

3 *“(4) request the production of information, docu-*
4 *ments, reports, answers, records (including phone*
5 *records), accounts, papers, emails, hard drives,*
6 *backup tapes, software, audio or visual aides, and*
7 *any other data and documentary evidence necessary*
8 *in the performance of the functions assigned to the*
9 *National Flood Insurance Advocate by this section;*

10 *“(5) request the testimony of any person in the*
11 *employ of any insurance company or associated enti-*
12 *ty participating in the National Flood Insurance*
13 *Program, described under subsection (b)(5)(A), or any*
14 *successor to such company or entity, including any*
15 *member of the board of such company or entity, any*
16 *trustee of such company or entity, any partner in*
17 *such company or entity, or any agent or representa-*
18 *tive of such company or entity;*

19 *“(6) select, appoint, and employ such officers*
20 *and employees as may be necessary for carrying out*
21 *the functions, powers, and duties of the Office subject*
22 *to the provisions of title 5, United States Code, gov-*
23 *erning appointments in the competitive service, and*
24 *the provisions of chapter 51 and subchapter III of*

1 *chapter 53 of such title relating to classification and*
2 *General Schedule pay rates;*

3 *“(7) obtain services as authorized by section*
4 *3109 of title 5, United States Code, at daily rates not*
5 *to exceed the equivalent rate prescribed for the rate of*
6 *basic pay for a position at level IV of the Executive*
7 *Schedule; and*

8 *“(8) to the extent and in such amounts as may*
9 *be provided in advance by appropriations Acts, enter*
10 *into contracts and other arrangements for audits,*
11 *studies, analyses, and other services with public agen-*
12 *cies and with private persons, and to make such pay-*
13 *ments as may be necessary to carry out the provisions*
14 *of this section.*

15 *“(d) ADDITIONAL DUTIES OF THE NFIA.—The Na-*
16 *tional Flood Insurance Advocate shall—*

17 *“(1) monitor the coverage and geographic alloca-*
18 *tion of regional offices of flood insurance advocates;*

19 *“(2) develop guidance to be distributed to all*
20 *Federal Emergency Management Agency officers and*
21 *employees having duties with respect to the national*
22 *flood insurance program, outlining the criteria for re-*
23 *ferral of inquiries by insureds under such program to*
24 *regional offices of flood insurance advocates;*

1 “(3) ensure that the local telephone number for
2 each regional office of the flood insurance advocate is
3 published and available to such insureds served by the
4 office; and

5 “(4) establish temporary State or local offices
6 where necessary to meet the needs of qualified in-
7 sureds following a flood event.

8 “(e) OTHER RESPONSIBILITIES.—

9 “(1) ADDITIONAL REQUIREMENTS RELATING TO
10 CERTAIN AUDITS.—Prior to conducting any audit or
11 investigation relating to the allocation of flood losses
12 under subsection (b)(5)(A), the National Flood Insur-
13 ance Advocate may—

14 “(A) consult with appropriate subject-mat-
15 ter experts to identify the data necessary to de-
16 termine whether flood claims paid by insurance
17 companies or associated entities on behalf the
18 national flood insurance program reflect dam-
19 ages caused by flooding;

20 “(B) collect or compile the data identified
21 in subparagraph (A), utilizing existing data
22 sources to the maximum extent practicable; and

23 “(C) establish policies, procedures, and
24 guidelines for application of such data in all au-

1 *dits and investigations authorized under this sec-*
2 *tion.*

3 “(2) *ANNUAL REPORTS.*—

4 “(A) *ACTIVITIES.*—*Not later than December*
5 *31 of each calendar year, the National Flood In-*
6 *surance Advocate shall report to the Committee*
7 *on Banking, Housing, and Urban Affairs of the*
8 *Senate and the Committee on Financial Services*
9 *of the House of Representatives on the activities*
10 *of the Office of the Flood Insurance Advocate*
11 *during the fiscal year ending during such cal-*
12 *endar year. Any such report shall contain a full*
13 *and substantive analysis of such activities, in*
14 *addition to statistical information, and shall—*

15 “(i) *identify the initiatives the Office*
16 *of the Flood Insurance Advocate has taken*
17 *on improving services for insureds under*
18 *the national flood insurance program and*
19 *responsiveness of the Federal Emergency*
20 *Management Agency with respect to such*
21 *initiatives;*

22 “(ii) *describe the nature of rec-*
23 *ommendations made to the Director under*
24 *subsection (i);*

1 “(iii) contain a summary of the most
2 serious problems encountered by such in-
3 sureds, including a description of the nature
4 of such problems;

5 “(iv) contain an inventory of any
6 items described in clauses (i), (ii), and (iii)
7 for which action has been taken and the re-
8 sult of such action;

9 “(v) contain an inventory of any items
10 described in clauses (i), (ii), and (iii) for
11 which action remains to be completed and
12 the period during which each item has re-
13 mained on such inventory;

14 “(vi) contain an inventory of any
15 items described in clauses (i), (ii), and (iii)
16 for which no action has been taken, the pe-
17 riod during which each item has remained
18 on such inventory and the reasons for the
19 inaction;

20 “(vii) identify any Flood Insurance
21 Assistance Recommendation which was not
22 responded to by the Director in a timely
23 manner or was not followed, as specified
24 under subsection (i);

1 “(viii) contain recommendations for
2 such administrative and legislative action
3 as may be appropriate to resolve problems
4 encountered by such insureds;

5 “(ix) identify areas of the law or regu-
6 lations relating to the national flood insur-
7 ance program that impose significant com-
8 pliance burdens on such insureds or the
9 Federal Emergency Management Agency,
10 including specific recommendations for rem-
11 edying these problems;

12 “(x) identify the most litigated issues
13 for each category of such insureds, including
14 recommendations for mitigating such dis-
15 putes;

16 “(xi) identify ways to promote the
17 economy, efficiency, and effectiveness in the
18 administration of the national flood insur-
19 ance program;

20 “(xii) identify fraud and abuse in the
21 national flood insurance program; and

22 “(xiii) include such other information
23 as the National Flood Insurance Advocate
24 may deem advisable.

1 “(B) *DIRECT SUBMISSION OF REPORT.*—
2 *Each report required under this paragraph shall*
3 *be provided directly to the committees identified*
4 *in subparagraph (A) without any prior review*
5 *or comment from the Director, the Secretary of*
6 *Homeland Security, or any other officer or em-*
7 *ployee of the Federal Emergency Management*
8 *Agency or the Department of Homeland Secu-*
9 *rity, or the Office of Management and Budget.*

10 “(3) *INFORMATION AND ASSISTANCE FROM*
11 *OTHER AGENCIES.*—

12 “(A) *IN GENERAL.*—*Upon request of the Na-*
13 *tional Flood Insurance Advocate for information*
14 *or assistance under this section, the head of any*
15 *Federal agency shall, insofar as is practicable*
16 *and not in contravention of any statutory re-*
17 *striction or regulation of the Federal agency*
18 *from which the information is requested, furnish*
19 *to the National Flood Insurance Advocate, or to*
20 *an authorized designee of the National Flood In-*
21 *surance Advocate, such information or assist-*
22 *ance.*

23 “(B) *REFUSAL TO COMPLY.*—*Whenever in-*
24 *formation or assistance requested under this sub-*
25 *section is, in the judgment of the National Flood*

1 *Insurance Advocate, unreasonably refused or not*
2 *provided, the National Flood Insurance Advocate*
3 *shall report the circumstances to the Director*
4 *without delay.*

5 “(f) *COMPLIANCE WITH GAO STANDARDS.—In car-*
6 *rying out the responsibilities established under this section,*
7 *the National Flood Insurance Advocate shall—*

8 “(1) *comply with standards established by the*
9 *Comptroller General of the United States for audits*
10 *of Federal establishments, organizations, programs,*
11 *activities, and functions;*

12 “(2) *establish guidelines for determining when it*
13 *shall be appropriate to use non-Federal auditors;*

14 “(3) *take appropriate steps to assure that any*
15 *work performed by non-Federal auditors complies*
16 *with the standards established by the Comptroller*
17 *General as described in paragraph (1); and*

18 “(4) *take the necessary steps to minimize the*
19 *publication of proprietary and trade secrets informa-*
20 *tion.*

21 “(g) *PERSONNEL ACTIONS.—*

22 “(1) *IN GENERAL.—The National Flood Insur-*
23 *ance Advocate shall have the responsibility and au-*
24 *thority to—*

1 “(A) appoint regional flood insurance advo-
2 cates in a manner that will provide appropriate
3 coverage based upon regional flood insurance
4 program participation; and

5 “(B) hire, evaluate, and take personnel ac-
6 tions (including dismissal) with respect to any
7 employee of any regional office of a flood insur-
8 ance advocate described in subparagraph (A).

9 “(2) CONSULTATION.—The National Flood In-
10 surance Advocate may consult with the appropriate
11 supervisory personnel of the Federal Emergency Man-
12 agement Agency in carrying out the National Flood
13 Insurance Advocate’s responsibilities under this sub-
14 section.

15 “(h) OPERATION OF REGIONAL OFFICES.—

16 “(1) IN GENERAL.—Each regional flood insur-
17 ance advocate appointed pursuant to subsection (d)—

18 “(A) shall report to the National Flood In-
19 surance Advocate or delegate thereof;

20 “(B) may consult with the appropriate su-
21 pervisory personnel of the Federal Emergency
22 Management Agency regarding the daily oper-
23 ation of the regional office of the flood insurance
24 advocate;

1 “(C) shall, at the initial meeting with any
2 insured under the national flood insurance pro-
3 gram seeking the assistance of a regional office
4 of the flood insurance advocate, notify such in-
5 sured that the flood insurance advocate offices
6 operate independently of any other Federal
7 Emergency Management Agency office and re-
8 port directly to Congress through the National
9 Flood Insurance Advocate; and

10 “(D) may, at the flood insurance advocate’s
11 discretion, not disclose to the Director contact
12 with, or information provided by, such insured.

13 “(2) MAINTENANCE OF INDEPENDENT COMMU-
14 NICATIONS.—Each regional office of the flood insur-
15 ance advocate shall maintain a separate phone, fac-
16 simile, and other electronic communication access.

17 “(i) FLOOD INSURANCE ASSISTANCE RECOMMENDA-
18 TIONS.—

19 “(1) AUTHORITY TO ISSUE.—Upon application
20 filed by a qualified insured with the Office of the
21 Flood Insurance Advocate (in such form, manner,
22 and at such time as the Director shall by regulation
23 prescribe), the National Flood Insurance Advocate
24 may issue a Flood Insurance Assistance Rec-
25 ommendation, if the Advocate finds that the qualified

1 *insured is suffering a significant hardship, such as a*
2 *significant delay in resolving claims where the in-*
3 *sured is incurring significant costs as a result of such*
4 *delay, or where the insured is at risk of adverse ac-*
5 *tion, including the loss of property, as a result of the*
6 *manner in which the flood insurance laws are being*
7 *administered by the Director.*

8 *“(2) TERMS OF A FLOOD INSURANCE ASSISTANCE*
9 *RECOMMENDATION.—The terms of a Flood Insurance*
10 *Assistance Recommendation may recommend to the*
11 *Director that the Director, within a specified time pe-*
12 *riod, cease any action, take any action as permitted*
13 *by law, or refrain from taking any action, including*
14 *the payment of claims, with respect to the qualified*
15 *insured under any other provision of law which is*
16 *specifically described by the National Flood Insurance*
17 *Advocate in such recommendation.*

18 *“(3) DIRECTOR RESPONSE.—Not later than 15*
19 *days after the receipt of any Flood Insurance Assist-*
20 *ance Recommendation under this subsection, the Di-*
21 *rector shall respond in writing as to—*

22 *“(A) whether such recommendation was fol-*
23 *lowed;*

24 *“(B) why such recommendation was or was*
25 *not followed; and*

1 “(C) *what, if any, additional actions were*
2 *taken by the Director to prevent the hardship in-*
3 *dicated in such recommendation.*

4 “(4) *RESPONSIBILITIES OF DIRECTOR.—The Di-*
5 *rector shall establish procedures requiring a formal*
6 *response consistent with the requirements of para-*
7 *graph (3) to all recommendations submitted to the*
8 *Director by the National Flood Insurance Advocate*
9 *under this subsection.*

10 “(j) *REPORTING OF POTENTIAL CRIMINAL VIOLA-*
11 *TIONS.—In carrying out the duties and responsibilities es-*
12 *tablished under this section, the National Flood Insurance*
13 *Advocate shall report expeditiously to the Attorney General*
14 *whenever the National Flood Insurance Advocate has rea-*
15 *sonable grounds to believe there has been a violation of Fed-*
16 *eral criminal law.*

17 “(k) *COORDINATION.—*

18 “(1) *WITH OTHER FEDERAL AGENCIES.—In car-*
19 *rying out the duties and responsibilities established*
20 *under this section, the National Flood Insurance Ad-*
21 *vocate—*

22 “(A) *shall give particular regard to the ac-*
23 *tivities of the Inspector General of the Depart-*
24 *ment of Homeland Security with a view toward*

1 *avoiding duplication and insuring effective co-*
2 *ordination and cooperation; and*

3 *“(B) may participate, upon request of the*
4 *Inspector General of the Department of Home-*
5 *land Security, in any audit or investigation con-*
6 *ducted by the Inspector General.*

7 *“(2) WITH STATE REGULATORS.—In carrying*
8 *out any investigation or audit under this section, the*
9 *National Flood Insurance Advocate shall coordinate*
10 *its activities and efforts with any State insurance au-*
11 *thority that is concurrently undertaking a similar or*
12 *related investigation or audit.*

13 *“(3) AVOIDANCE OF REDUNDANCIES IN THE RES-*
14 *OLUTION OF PROBLEMS.—In providing any assist-*
15 *ance to a policyholder pursuant to paragraphs (1)*
16 *and (2) of subsection (b), the National Flood Insur-*
17 *ance Advocate shall consult with the Director to*
18 *eliminate, avoid, or reduce any redundancies in ac-*
19 *tions that may arise as a result of the actions of the*
20 *National Flood Insurance Advocate and the claims*
21 *appeals process described under section 62.20 of title*
22 *44, Code of Federal Regulations.*

23 *“(l) AUTHORITY OF THE DIRECTOR TO LEVY PEN-*
24 *ALTIES.—The Director and the Advocate shall establish pro-*
25 *cedures to take appropriate action against an insurance*

1 *company, including monetary penalties and removal or*
2 *suspension from the program, when a company refuses to*
3 *cooperate with an investigation or audit under this section*
4 *or where a finding has been made of improper conduct.*

5 “(m) *DEFINITIONS.—For purposes of this subsection:*

6 “(1) *ASSOCIATED ENTITY.—The term ‘associated*
7 *entity’ means any person, corporation, or other legal*
8 *entity that contracts with the Director or an insur-*
9 *ance company to provide adjustment services, benefits*
10 *calculation services, claims services, processing serv-*
11 *ices, or record keeping services in connection with*
12 *standard flood insurance policies made available*
13 *under the national flood insurance program.*

14 “(2) *INSURANCE COMPANY.—The term ‘insurance*
15 *company’ refers to any property and casualty insur-*
16 *ance company that is authorized by the Director to*
17 *participate in the Write Your Own program under*
18 *the national flood insurance program.*

19 “(3) *NATIONAL FLOOD INSURANCE ADVOCATE.—*
20 *The term ‘National Flood Insurance Advocate’ in-*
21 *cludes any designee of the National Flood Insurance*
22 *Advocate.*

23 “(4) *QUALIFIED INSURED.—The term ‘qualified*
24 *insured’ means an insured under coverage provided*

1 *under the national flood insurance program under*
 2 *this title.*

3 “(n) *FUNDING.*—Pursuant to section 1310(a)(8), the
 4 *Director may use amounts from the National Flood Insur-*
 5 *ance Fund to fund the activities of the Office of the Flood*
 6 *Advocate in each of fiscal years 2009 through 2014, except*
 7 *that the amount so used in each such fiscal year may not*
 8 *exceed \$5,000,000 and shall remain available until ex-*
 9 *pended. Notwithstanding any other provision of this title,*
 10 *amounts made available pursuant to this subsection shall*
 11 *not be subject to offsetting collections through premium*
 12 *rates for flood insurance coverage under this title.”.*

13 **SEC. 132. STUDIES AND REPORTS.**

14 (a) *REPORT ON EXPANDING THE NATIONAL FLOOD IN-*
 15 *SURANCE PROGRAM.*—Not later than 1 year after the date
 16 *of the enactment of this title, the Comptroller General of*
 17 *the United States shall conduct a study and submit a report*
 18 *to the Committee on Banking, Housing, and Urban Affairs*
 19 *of the Senate and the Committee on Financial Services of*
 20 *the House of Representatives, on—*

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

23 (A) *a residential structure up to the max-*
 24 *imum available coverage amount, as established*

1 *in section 61.6 of title 44, Code of Federal Regu-*
2 *lations, of—*

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

4 *(ii) \$100,000 for the contents of such*
5 *structure; or*

6 *(B) a commercial structure up to the max-*
7 *imum available coverage amount, as established*
8 *in section 61.6 of title 44, Code of Federal Regu-*
9 *lations, of \$500,000;*

10 *(2) the increased losses the National Flood Insur-*
11 *ance Program would have sustained during the 2004*
12 *and 2005 hurricane season if the National Flood In-*
13 *surance Program had insured all policyholders up to*
14 *the maximum conforming loan limit for fiscal year*
15 *2006 of \$417,000, as established under section*
16 *302(b)(2) of the Federal National Mortgage Associa-*
17 *tion Charter Act (12 U.S.C. 1717(b)(2));*

18 *(3) the availability in the private marketplace of*
19 *flood insurance coverage in amounts that exceed the*
20 *current limits of coverage amounts established in sec-*
21 *tion 61.6 of title 44, Code of Federal Regulations; and*

22 *(4) what effect, if any—*

23 *(A) raising the current limits of coverage*
24 *amounts established in section 61.6 of title 44,*
25 *Code of Federal Regulations, would have on the*

1 *ability of private insurers to continue providing*
2 *flood insurance coverage; and*

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

11 *(b) REPORT OF THE DIRECTOR ON ACTIVITIES UNDER*
12 *THE NATIONAL FLOOD INSURANCE PROGRAM.—*

13 *(1) IN GENERAL.—The Director shall, on an an-*
14 *nual basis, submit a full report on the operations, ac-*
15 *tivities, budget, receipts, and expenditures of the Na-*
16 *tional Flood Insurance Program for the preceding 12-*
17 *month period to the Committee on Banking, Housing,*
18 *and Urban Affairs of the Senate and the Committee*
19 *on Financial Services of the House of Representatives.*

20 *(2) TIMING.—Each report required under para-*
21 *graph (1) shall be submitted to the committees de-*
22 *scribed in paragraph (1) not later than 3 months fol-*
23 *lowing the end of each fiscal year.*

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

1 (A) *the current financial condition and in-*
2 *come statement of the National Flood Insurance*
3 *Fund established under section 1310 of the Na-*
4 *tional Flood Insurance Act of 1968 (42 U.S.C.*
5 *4017), including—*

6 (i) *premiums paid into such Fund;*

7 (ii) *policy claims against such Fund;*

8 *and*

9 (iii) *expenses in administering such*
10 *Fund;*

11 (B) *the number and face value of all poli-*
12 *cies issued under the National Flood Insurance*
13 *Program that are in force;*

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

16 (D) *a description and summary of all losses*
17 *incurred by the National Flood Insurance Pro-*
18 *gram due to—*

19 (i) *hurricane related damage; and*

20 (ii) *nonhurricane related damage;*

21 (E) *the amounts made available by the Di-*
22 *rector for mitigation assistance under section*
23 *1366(e)(5) of the National Flood Insurance Act*
24 *of 1968 (42 U.S.C. 4104c(e)(5)) for the purchase*
25 *of properties substantially damaged by flood for*

1 that fiscal year, and the actual number of flood
2 damaged properties purchased and the total cost
3 expended to purchase such properties;

4 (F) the estimate of the Director as to the av-
5 erage historical loss year, and the basis for that
6 estimate;

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

11 (H) the average—

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

14 (ii) premium per flood insurance pol-
15 icy; and

16 (iii) loss per flood insurance policy;

17 and

18 (I) the number of claims involving damages
19 in excess of the maximum amount of flood insur-
20 ance available under the National Flood Insur-
21 ance Program and the sum of the amount of all
22 damages in excess of such amount.

23 (c) *GAO STUDY ON PRE-FIRM STRUCTURES.*—Not
24 later than 1 year after the date of the enactment of this
25 title, the Comptroller General of the United States shall con-

1 *duct a study and submit a report to the Committee on*
2 *Banking, Housing, and Urban Affairs of the Senate and*
3 *the Committee on Financial Services of the House of Rep-*
4 *resentatives, on the—*

5 (1) *composition of the remaining pre-FIRM*
6 *structures that are explicitly receiving discounted pre-*
7 *mium rates under section 1307 of the National Flood*
8 *Insurance Act of 1968 (42 U.S.C. 4104), including*
9 *the historical basis for the receipt of such subsidy and*
10 *whether such subsidy has outlasted its purpose;*

11 (2) *number and fair market value of such struc-*
12 *tures;*

13 (3) *respective income level of each owner of such*
14 *structure;*

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

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

24 (6) *total cost of foregone premiums since the es-*
25 *tablishment of the National Flood Insurance Pro-*

1 *gram, as a result of the subsidies provided to such*
2 *structures;*

3 *(7) annual cost to the taxpayer, as a result of the*
4 *subsidies provided to such structures;*

5 *(8) the premium income collected and the losses*
6 *incurred by the National Flood Insurance Program as*
7 *a result of such explicitly subsidized structures com-*
8 *pared to the premium income collected and the losses*
9 *incurred by such Program as result of structures that*
10 *are charged a nondiscounted premium rate, on a*
11 *State-by-State basis; and*

12 *(9) the most efficient way to eliminate the sub-*
13 *sidy to such structures.*

14 *(d) GAO REVIEW OF FEMA CONTRACTORS.—The*
15 *Comptroller General of the United States, in conjunction*
16 *with the Department of Homeland Security’s Inspectors*
17 *general Office, shall—*

18 *(1) conduct a review of the 3 largest contractors*
19 *the Director uses in administering the National Flood*
20 *Insurance Program; and*

21 *(2) not later than 18 months after the date of en-*
22 *actment of this title, submit a report on the findings*
23 *of such review to the Director, the Committee on*
24 *Banking, Housing, and Urban Affairs of the Senate,*

1 *and the Committee on Financial Services of the*
2 *House of Representatives.*

3 **SEC. 133. FEASIBILITY STUDY ON PRIVATE REINSURANCE.**

4 *Not later than 1 year after the date of enactment of*
5 *this Act, the Comptroller General of the United States shall*
6 *conduct and submit a report to Congress on—*

7 *(1) the feasibility of requiring the Director, as*
8 *part of carrying out the responsibilities of the Direc-*
9 *tor under the National Flood Insurance Program, to*
10 *purchase private reinsurance or retrocessional cov-*
11 *erage, in addition to any such reinsurance coverage*
12 *required under section 1335 of the National Flood In-*
13 *surance Act of 1968 (42 U.S.C. 4055), to underlying*
14 *primary private insurers for losses arising due to*
15 *flood insurance coverage provided by such insurers;*

16 *(2) the feasibility of repealing the reinsurance re-*
17 *quirement under such section 1335, and requiring the*
18 *Director, as part of carrying out the responsibilities*
19 *of the Director under the National Flood Insurance*
20 *Program, to purchase private reinsurance or*
21 *retrocessional coverage to underlying primary private*
22 *insurers for losses arising due to flood insurance cov-*
23 *erage provided by such insurer; and*

1 (3) *the estimated total savings to the taxpayer of*
2 *taking each such action described in paragraph (1) or*
3 (2).

4 **SEC. 134. POLICY DISCLOSURES.**

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

13 (b) *VIOLATIONS.*—*Any person that violates the require-*
14 *ments of this section shall be subject to a fine of not more*
15 *than \$50,000 at the discretion of the Director.*

16 **SEC. 135. REPORT ON INCLUSION OF BUILDING CODES IN**
17 **FLOODPLAIN MANAGEMENT CRITERIA.**

18 *Not later than 6 months after the date of the enactment*
19 *of this Act, the Director of the Federal Emergency Manage-*
20 *ment Agency shall conduct a study and submit a report*
21 *to the Committee on Financial Services of the House of Rep-*
22 *resentatives and the Committee on Banking, Housing, and*
23 *Urban Affairs of the Senate regarding the impact, effective-*
24 *ness, and feasibility of amending section 1361 of the Na-*
25 *tional Flood Insurance Act of 1968 (42 U.S.C. 4102) to in-*

1 *clude widely used and nationally recognized building codes*
2 *as part of the floodplain management criteria developed*
3 *under such section, and shall determine—*

4 (1) *the regulatory, financial, and economic im-*
5 *pacts of such a building code requirement on home-*
6 *owners, States and local communities, local land use*
7 *policies, and the Federal Emergency Management*
8 *Agency;*

9 (2) *the resources required of State and local com-*
10 *munities to administer and enforce such a building*
11 *code requirement;*

12 (3) *the effectiveness of such a building code re-*
13 *quirement in reducing flood-related damage to build-*
14 *ings and contents;*

15 (4) *the impact of such a building code require-*
16 *ment on the actuarial soundness of the National*
17 *Flood Insurance Program;*

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

21 (6) *the feasibility and effectiveness of providing*
22 *an incentive in lower premium rates for flood insur-*
23 *ance coverage under such Act for structures meeting*
24 *whichever of such widely used and nationally recog-*

1 *nized building code or any applicable local building*
2 *code provides greater protection from flood damage.*

3 **TITLE II—COMMISSION ON NAT-**
4 **URAL CATASTROPHE RISK**
5 **MANAGEMENT AND INSUR-**
6 **ANCE**

7 **SEC. 201. SHORT TITLE.**

8 *This title may be cited as the “Commission on Natural*
9 *Catastrophe Risk Management and Insurance Act of 2008”.*

10 **SEC. 202. FINDINGS.**

11 *Congress finds that—*

12 (1) *Hurricanes Katrina, Rita, and Wilma,*
13 *which struck the United States in 2005, caused, by*
14 *some estimates, in excess of \$200,000,000,000 in total*
15 *economic losses;*

16 (2) *many meteorologists predict that the United*
17 *States is in a period of increased hurricane activity;*

18 (3) *the Federal Government and State govern-*
19 *ments have provided billions of dollars to pay for*
20 *losses from natural catastrophes, including hurri-*
21 *canes, earthquakes, volcanic eruptions, tsunamis, tor-*
22 *nados, flooding, wildfires, droughts, and other natural*
23 *catastrophes;*

1 (4) many Americans are finding it increasingly
2 difficult to obtain and afford property and casualty
3 insurance coverage;

4 (5) some insurers are not renewing insurance
5 policies, are excluding certain risks, such as wind
6 damage, and are increasing rates and deductibles in
7 some markets;

8 (6) the inability of property and business owners
9 in vulnerable areas to obtain and afford property and
10 casualty insurance coverage endangers the national
11 economy and public health and safety;

12 (7) almost every State in the United States is at
13 risk of a natural catastrophe, including hurricanes,
14 earthquakes, volcanic eruptions, tsunamis, tornados,
15 flooding, wildfires, droughts, and other natural catas-
16 trophes;

17 (8) building codes and land use regulations play
18 an indispensable role in managing catastrophe risks,
19 by preventing building in high risk areas and ensur-
20 ing that appropriate mitigation efforts are completed
21 where building has taken place;

22 (9) several proposals have been introduced in
23 Congress to address the affordability and availability
24 of natural catastrophe insurance across the United

1 *States, but there is no consensus on what, if any, role*
2 *the Federal Government should play; and*

3 *(10) an efficient and effective approach to assess-*
4 *ing natural catastrophe risk management and insur-*
5 *ance is to establish a nonpartisan commission to*
6 *study the management of natural catastrophe risk,*
7 *and to require such commission to timely report to*
8 *Congress on its findings.*

9 **SEC. 203. ESTABLISHMENT.**

10 *There is established a nonpartisan Commission on*
11 *Natural Catastrophe Risk Management and Insurance (in*
12 *this title referred to as the “Commission”).*

13 **SEC. 204. MEMBERSHIP.**

14 *(a) APPOINTMENT.—The Commission shall be com-*
15 *posed of 16 members, of whom—*

16 *(1) 2 members shall be appointed by the major-*
17 *ity leader of the Senate;*

18 *(2) 2 members shall be appointed by the minor-*
19 *ity leader of the Senate;*

20 *(3) 2 members shall be appointed by the Speaker*
21 *of the House of Representatives;*

22 *(4) 2 members shall be appointed by the minor-*
23 *ity leader of the House of Representatives;*

1 (5) 2 members shall be appointed by the Chair-
2 man of the Committee on Banking, Housing, and
3 Urban Affairs of the Senate;

4 (6) 2 members shall be appointed by the Rank-
5 ing Member of the Committee on Banking, Housing,
6 and Urban Affairs of the Senate;

7 (7) 2 members shall be appointed by the Chair-
8 man of the Committee on Financial Services of the
9 House of Representatives; and

10 (8) 2 members shall be appointed by the Rank-
11 ing Member of the Committee on Financial Services
12 of the House of Representatives.

13 (b) *QUALIFICATION OF MEMBERS.*—

14 (1) *IN GENERAL.*—Members of the Commission
15 shall be appointed under subsection (a) from among
16 persons who—

17 (A) have expertise in insurance, reinsur-
18 ance, insurance regulation, policyholder con-
19 cerns, emergency management, risk management,
20 public finance, financial markets, actuarial
21 analysis, flood mapping and planning, struc-
22 tural engineering, building standards, land use
23 planning, natural catastrophes, meteorology,
24 seismology, environmental issues, or other perti-
25 nent qualifications or experience; and

1 (B) are not officers or employees of the
2 United States Government or of any State gov-
3 ernment.

4 (2) *DIVERSITY.*—In making appointments to the
5 Commission—

6 (A) every effort shall be made to ensure that
7 the members are representative of a broad cross
8 section of perspectives within the United States;
9 and

10 (B) each member of Congress described in
11 subsection (a) shall appoint not more than 1
12 person from any single primary area of expertise
13 described in paragraph (1)(A) of this subsection.

14 (c) *PERIOD OF APPOINTMENT.*—

15 (1) *IN GENERAL.*—Each member of the Commis-
16 sion shall be appointed for the duration of the Com-
17 mission.

18 (2) *VACANCIES.*—A vacancy on the Commission
19 shall not affect its powers, but shall be filled in the
20 same manner as the original appointment.

21 (d) *QUORUM.*—

22 (1) *MAJORITY.*—A majority of the members of
23 the Commission shall constitute a quorum, but a less-
24 er number, as determined by the Commission, may
25 hold hearings.

1 (2) *APPROVAL ACTIONS.*—*All recommendations*
2 *and reports of the Commission required by this title*
3 *shall be approved only by a majority vote of all of the*
4 *members of the Commission.*

5 (e) *CHAIRPERSON.*—*The Commission shall, by major-*
6 *ity vote of all of the members, select 1 member to serve as*
7 *the Chairperson of the Commission (in this title referred*
8 *to as the “Chairperson”).*

9 (f) *MEETINGS.*—*The Commission shall meet at the call*
10 *of its Chairperson or a majority of the members.*

11 **SEC. 205. DUTIES OF THE COMMISSION.**

12 *The Commission shall examine the risks posed to the*
13 *United States by natural catastrophes, and means for miti-*
14 *gating those risks and for paying for losses caused by nat-*
15 *ural catastrophes, including assessing—*

16 (1) *the condition of the property and casualty*
17 *insurance and reinsurance markets prior to and in*
18 *the aftermath of Hurricanes Katrina, Rita, and*
19 *Wilma in 2005, and the 4 major hurricanes that*
20 *struck the United States in 2004;*

21 (2) *the current condition of, as well as the out-*
22 *look for, the availability and affordability of insur-*
23 *ance in all regions of the country;*

24 (3) *the current ability of States, communities,*
25 *and individuals to mitigate their natural catastrophe*

1 *risks, including the affordability and feasibility of*
2 *such activities;*

3 *(4) the ongoing exposure of the United States to*
4 *natural catastrophes, including hurricanes, earth-*
5 *quakes, volcanic eruptions, tsunamis, tornados, flood-*
6 *ing, wildfires, droughts, and other natural catas-*
7 *trophes;*

8 *(5) the catastrophic insurance and reinsurance*
9 *markets and the relevant practices in providing in-*
10 *surance protection to different sectors of the American*
11 *population;*

12 *(6) implementation of a catastrophic insurance*
13 *system that can resolve key obstacles currently imped-*
14 *ing broader implementation of catastrophic risk man-*
15 *agement and financing with insurance;*

16 *(7) the financial feasibility and sustainability of*
17 *a national, regional, or other pooling mechanism de-*
18 *signed to provide adequate insurance coverage and in-*
19 *creased underwriting capacity to insurers and rein-*
20 *surers, including private-public partnerships to in-*
21 *crease insurance capacity in constrained markets;*

22 *(8) methods to promote public insurance policies*
23 *to reduce losses caused by natural catastrophes in the*
24 *uninsured sectors of the American population;*

1 (9) approaches for implementing a public or pri-
2 vate insurance scheme for low-income communities, in
3 order to promote risk reduction and insurance cov-
4 erage in such communities;

5 (10) the impact of Federal and State laws, regu-
6 lations, and policies (including rate regulation, mar-
7 ket access requirements, reinsurance regulations, ac-
8 counting and tax policies, State residual markets,
9 and State catastrophe funds) on—

10 (A) the affordability and availability of ca-
11 tastrophe insurance;

12 (B) the capacity of the private insurance
13 market to cover losses inflicted by natural catas-
14 trophes;

15 (C) the commercial and residential develop-
16 ment of high-risk areas; and

17 (D) the costs of natural catastrophes to Fed-
18 eral and State taxpayers;

19 (11) the present and long-term financial condi-
20 tion of State residual markets and catastrophe funds
21 in high-risk regions, including the likelihood of insol-
22 vency following a natural catastrophe, the concentra-
23 tion of risks within such funds, the reliance on post-
24 event assessments and State funding, and the ade-
25 quacy of rates;

1 (12) *the role that innovation in financial serv-*
2 *ices could play in improving the affordability and*
3 *availability of natural catastrophe insurance, specifi-*
4 *cally addressing measures that would foster the devel-*
5 *opment of financial products designed to cover nat-*
6 *ural catastrophe risk, such as risked-linked securities;*

7 (13) *the need for strengthened land use regula-*
8 *tions and building codes in States at high risk for*
9 *natural catastrophes, and methods to strengthen the*
10 *risk assessment and enforcement of structural mitiga-*
11 *tion and vulnerability reduction measures, such as*
12 *zoning and building code compliance;*

13 (14) *the benefits and costs of proposed Federal*
14 *natural catastrophe insurance programs (including*
15 *the Federal Government providing reinsurance to*
16 *State catastrophe funds, private insurers, or other en-*
17 *tities), specifically addressing the costs to taxpayers,*
18 *tax equity considerations, and the record of other gov-*
19 *ernment insurance programs (particularly with re-*
20 *gard to charging actuarially sound prices);*

21 (15) *the ability of the United States private in-*
22 *surance market—*

23 (A) *to cover insured losses caused by nat-*
24 *ural catastrophes, including an estimate of the*
25 *maximum amount of insured losses that could be*

1 *sustained during a single year and the prob-*
2 *ability of natural catastrophes occurring in a*
3 *single year that would inflict more insured losses*
4 *than the United States insurance and reinsur-*
5 *ance markets could sustain; and*

6 *(B) to recover after covering substantial in-*
7 *sured losses caused by natural catastrophes;*

8 *(16) the impact that demographic trends could*
9 *have on the amount of insured losses inflicted by fu-*
10 *ture natural catastrophes;*

11 *(17) the appropriate role, if any, for the Federal*
12 *Government in stabilizing the property and casualty*
13 *insurance and reinsurance markets; and*

14 *(18) the role of the Federal, State, and local gov-*
15 *ernments in providing incentives for feasible risk*
16 *mitigation efforts.*

17 **SEC. 206. REPORT.**

18 *(a) IN GENERAL.—Not later than 9 months after the*
19 *date of enactment of this title, the Commission shall submit*
20 *to the Committee on Banking, Housing, and Urban Affairs*
21 *of the Senate and the Committee on Financial Services of*
22 *the House of Representatives a final report containing—*

23 *(1) a detailed statement of the findings and as-*
24 *sessments conducted by the Commission pursuant to*
25 *section 205; and*

1 (2) *any recommendations for legislative, regu-*
2 *latory, administrative, or other actions at the Fed-*
3 *eral, State, or local levels that the Commission con-*
4 *siders appropriate, in accordance with the require-*
5 *ments of section 205.*

6 (b) *EXTENSION OF TIME.—The Commission may re-*
7 *quest Congress to extend the period of time for the submis-*
8 *sion of the report required under subsection (a) for an addi-*
9 *tional 3 months.*

10 **SEC. 207. POWERS OF THE COMMISSION.**

11 (a) *MEETINGS; HEARINGS.—The Commission may*
12 *hold such hearings, sit and act at such times and places,*
13 *take such testimony, and receive such evidence as the Com-*
14 *mission considers necessary to carry out the purposes of this*
15 *title. Members may attend meetings of the Commission and*
16 *vote in person, via telephone conference, or via video con-*
17 *ference.*

18 (b) *AUTHORITY OF MEMBERS OR AGENTS OF THE*
19 *COMMISSION.—Any member or agent of the Commission*
20 *may, if authorized by the Commission, take any action*
21 *which the Commission is authorized to take by this title.*

22 (c) *OBTAINING OFFICIAL DATA.—*

23 (1) *AUTHORITY.—Notwithstanding any provi-*
24 *sion of section 552a of title 5, United States Code, the*
25 *Commission may secure directly from any depart-*

1 *ment or agency of the United States any information*
2 *necessary to enable the Commission to carry out this*
3 *title.*

4 (2) *PROCEDURE.*—*Upon request of the Chair-*
5 *person, the head of such department or agency shall*
6 *furnish to the Commission the information requested.*

7 (d) *POSTAL SERVICES.*—*The Commission may use the*
8 *United States mails in the same manner and under the*
9 *same conditions as other departments and agencies of the*
10 *Federal Government.*

11 (e) *ADMINISTRATIVE SUPPORT SERVICES.*—*Upon the*
12 *request of the Commission, the Administrator of General*
13 *Services shall provide to the Commission, on a reimbursable*
14 *basis, any administrative support services necessary for the*
15 *Commission to carry out its responsibilities under this title.*

16 (f) *ACCEPTANCE OF GIFTS.*—*The Commission may ac-*
17 *cept, hold, administer, and utilize gifts, donations, and be-*
18 *quests of property, both real and personal, for the purposes*
19 *of aiding or facilitating the work of the Commission. The*
20 *Commission shall issue internal guidelines governing the re-*
21 *ceipt of donations of services or property.*

22 (g) *VOLUNTEER SERVICES.*—*Notwithstanding the pro-*
23 *visions of section 1342 of title 31, United States Code, the*
24 *Commission may accept and utilize the services of volun-*
25 *teers serving without compensation. The Commission may*

1 *reimburse such volunteers for local travel and office sup-*
2 *plies, and for other travel expenses, including per diem in*
3 *lieu of subsistence, as authorized by section 5703 of title*
4 *5, United States Code.*

5 *(h) FEDERAL PROPERTY AND ADMINISTRATIVE SERV-*
6 *ICES ACT OF 1949.—Subject to the Federal Property and*
7 *Administrative Services Act of 1949, the Commission may*
8 *enter into contracts with Federal and State agencies, pri-*
9 *vate firms, institutions, and individuals for the conduct of*
10 *activities necessary to the discharge of its duties and re-*
11 *sponsibilities.*

12 *(i) LIMITATION ON CONTRACTS.—A contract or other*
13 *legal agreement entered into by the Commission may not*
14 *extend beyond the date of the termination of the Commis-*
15 *sion.*

16 **SEC. 208. COMMISSION PERSONNEL MATTERS.**

17 *(a) TRAVEL EXPENSES.—The members of the Commis-*
18 *sion shall be allowed travel expenses, including per diem*
19 *in lieu of subsistence, at rates authorized for employees of*
20 *agencies under subchapter I of chapter 57 of title 5, United*
21 *States Code, while away from their homes or regular places*
22 *of business in the performance of services for the Commis-*
23 *sion.*

24 *(b) SUBCOMMITTEES.—The Commission may establish*
25 *subcommittees and appoint members of the Commission to*

1 *such subcommittees as the Commission considers appro-*
2 *priate.*

3 (c) *STAFF.*—*Subject to such policies as the Commis-*
4 *sion may prescribe, the Chairperson may appoint and fix*
5 *the pay of such additional personnel as the Chairperson*
6 *considers appropriate to carry out the duties of the Com-*
7 *mission. The Commission shall confirm the appointment of*
8 *the executive director by majority vote of all of the members*
9 *of the Commission.*

10 (d) *APPLICABILITY OF CERTAIN CIVIL SERVICE*
11 *LAWS.*—*Staff of the Commission may be—*

12 (1) *appointed without regard to the provisions of*
13 *title 5, United States Code, governing appointments*
14 *in the competitive service; and*

15 (2) *paid without regard to the provisions of*
16 *chapter 51 and subchapter III of chapter 53 of that*
17 *title relating to classification and General Schedule*
18 *pay rates, except that an individual so appointed*
19 *may not receive pay in excess of the annual rate of*
20 *basic pay prescribed for GS–15 of the General Sched-*
21 *ule under section 5332 of that title.*

22 (e) *EXPERTS AND CONSULTANTS.*—*In carrying out its*
23 *objectives, the Commission may procure temporary and*
24 *intermittent services of consultants and experts under sec-*
25 *tion 3109(b) of title 5, United States Code, at rates for indi-*

1 *viduals which do not exceed the daily equivalent of the an-*
 2 *nual rate of basic pay prescribed for GS-15 of the General*
 3 *Schedule under section 5332 of that title.*

4 (f) *DETAIL OF GOVERNMENT EMPLOYEES.—Upon re-*
 5 *quest of the Chairperson, any Federal Government employee*
 6 *may be detailed to the Commission to assist in carrying*
 7 *out the duties of the Commission—*

8 (1) *on a reimbursable basis; and*

9 (2) *such detail shall be without interruption or*
 10 *loss of civil service status or privilege.*

11 **SEC. 209. TERMINATION.**

12 *The Commission shall terminate 90 days after the date*
 13 *on which the Commission submits its report under section*
 14 *206.*

15 **SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

16 *There are authorized to be appropriated to the Com-*
 17 *mission, such sums as may be necessary to carry out this*
 18 *title, to remain available until expended.*

19 **TITLE III—MISCELLANEOUS**

20 **SEC. 301. BIG SIOUX RIVER AND SKUNK CREEK, SIOUX**
 21 **FALLS, SOUTH DAKOTA.**

22 *The project for flood control, Big Sioux River and*
 23 *Skunk Creek, Sioux Falls, South Dakota, authorized by sec-*
 24 *tion 101(a)(28) of the Water Resources Development Act of*
 25 *1996 (110 Stat. 3666), is modified to authorize the Sec-*

1 *retary to reimburse the non-Federal interest for funds ad-*
2 *vanced by the non-Federal interest for the Federal share of*
3 *the project, only if additional Federal funds are appro-*
4 *priated for that purpose.*

5 **SEC. 302. SUSPENSION OF PETROLEUM ACQUISITION FOR**
6 **STRATEGIC PETROLEUM RESERVE.**

7 *(a) IN GENERAL.—Except as provided in subsection*
8 *(b) and notwithstanding any other provision of law, during*
9 *the period beginning on the date of enactment of this Act*
10 *and ending on December 31, 2008—*

11 *(1) the Secretary of the Interior shall suspend*
12 *acquisition of petroleum for the Strategic Petroleum*
13 *Reserve through the royalty-in-kind program; and*

14 *(2) the Secretary of Energy shall suspend acqui-*
15 *sition of petroleum for the Strategic Petroleum Re-*
16 *serve through any other acquisition method.*

17 *(b) RESUMPTION.—Not earlier than 30 days after the*
18 *date on which the President notifies Congress that the Presi-*
19 *dent has determined that the weighted average price of pe-*
20 *troleum in the United States for the most recent 90-day*
21 *period is \$75 or less per barrel—*

22 *(1) the Secretary of the Interior may resume ac-*
23 *quisition of petroleum for the Strategic Petroleum Re-*
24 *serve through the royalty-in-kind program; and*

1 (2) *the Secretary of Energy may resume acquisi-*
2 *tion of petroleum for the Strategic Petroleum Reserve*
3 *through any other acquisition method.*

4 (c) *EXISTING CONTRACTS.—In the case of any oil*
5 *scheduled to be delivered to the Strategic Petroleum Reserve*
6 *pursuant to a contract entered into by the Secretary of En-*
7 *ergy prior to, and in effect on, the date of enactment of*
8 *this Act, the Secretary shall, to the maximum extent prac-*
9 *ticable, negotiate a deferral of the delivery of the oil for a*
10 *period of not less than 1 year, in accordance with proce-*
11 *dures of the Department of Energy in effect on the date*
12 *of enactment of this Act for deferrals of oil.*

Attest:

Secretary.

110TH CONGRESS
2^D SESSION

H.R. 3121

AMENDMENT