

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4973

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## AN ACT

To restore the financial solvency of the national flood insurance program, and for other purposes.

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

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Flood Insurance Reform and Modernization Act of  
 4 2006”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Study regarding status of pre-FIRM properties and mandatory purchase requirement for natural 100-year floodplain and non-Federally related loans.
- Sec. 4. Phase-in of actuarial rates for nonresidential properties and non-primary residences.
- Sec. 5. Waiting period for effective date of policies.
- Sec. 6. Enforcement.
- Sec. 7. Maximum coverage limits.
- Sec. 8. Coverage for additional living expenses, basement improvements, business interruption, and replacement cost of contents.
- Sec. 9. Increase in annual limitation on premium increases.
- Sec. 10. Increase in borrowing authority.
- Sec. 11. FEMA participation in State disaster claims mediation programs.
- Sec. 12. FEMA reports on financial status of insurance program.
- Sec. 13. Extension of pilot program for mitigation of severe repetitive loss properties.
- Sec. 14. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
- Sec. 15. Reiteration of FEMA responsibilities under 2004 Reform Act.
- Sec. 16. Updating of flood maps and elevation standards.
- Sec. 17. Notification and appeal of map changes; notification of establishment of flood elevations.
- Sec. 18. National levee inventory.
- Sec. 19. Clarification of replacement cost provisions, forms, and policy language.
- Sec. 20. Authorization of additional FEMA staff.
- Sec. 21. Investigation of write-your-own insurers’ adjustment of claims relating to Hurricane Katrina.
- Sec. 22. Eligibility of property demolition and rebuilding for mitigation assistance program.
- Sec. 23. Sampling methods for quality assurance.
- Sec. 24. Extension of deadline for filing proof of loss.

7 **SEC. 2. FINDINGS AND PURPOSES.**

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

9 (1) flooding has been shown to occur in all 50  
 10 States;

1           (2) the aggregate amount of the flood insurance  
2           claims resulting from Hurricane Katrina, Hurricane  
3           Rita, and other recent events has exceeded the ag-  
4           gregate amount of all claims previously paid in the  
5           history of the national flood insurance program, re-  
6           quiring a significant increase in the program's bor-  
7           rowing authority;

8           (3) flood insurance policyholders have a legiti-  
9           mate expectation that they will receive fair and time-  
10          ly compensation for losses covered under their poli-  
11          cies;

12          (4) substantial flooding has occurred, and will  
13          likely occur again, outside the areas designated by  
14          the Federal Emergency Management Agency as  
15          flood hazard areas;

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

19          (6) about 450,000 vacation homes, second  
20          homes, and commercial properties are subsidized  
21          and are not paying actuarially sound rates for flood  
22          insurance;

23          (7) phasing out subsidies currently extended to  
24          vacation homes, second homes, and commercial  
25          properties would result in estimated average savings

1 to the taxpayers of the United States and the na-  
2 tional flood insurance program of \$335,000,000  
3 each year;

4 (8) the maximum coverage limits for flood in-  
5 surance policies should be increased to reflect infla-  
6 tion and the increased cost of housing;

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

11 (10) in addition to reforms required in the  
12 Bunning-Bereuter-Blumenauer Flood Insurance Re-  
13 form Act of 2004, the national flood insurance pro-  
14 gram requires a modernized and updated adminis-  
15 trative model to ensure that the program is solvent  
16 and the people of the United States have continued  
17 access to flood insurance.

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

19 (1) to protect the integrity of the national flood  
20 insurance program by fully funding existing legal ob-  
21 ligations expected by existing policyholders who have  
22 paid policy premiums in return for flood insurance  
23 coverage;

24 (2) to increase incentives for homeowners and  
25 communities to participate in the national flood in-

1       surance program and to improve oversight to ensure  
2       full participation in the program for owners of prop-  
3       erties for which such participation is mandatory; and

4               (3) to increase awareness of homeowners of  
5       flood risks and improve the quality of information  
6       regarding such risks provided to homeowners.

7 **SEC. 3. STUDY REGARDING STATUS OF PRE-FIRM PROP-**  
8                   **ERTIES AND MANDATORY PURCHASE RE-**  
9                   **QUIREMENT FOR NATURAL 100-YEAR FLOOD-**  
10                  **PLAIN AND NON-FEDERALLY RELATED**  
11                  **LOANS.**

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

14               (1) PRE-FIRM PROPERTIES.—The study shall  
15       determine the status of the national flood insurance  
16       program, as of the date of the enactment of this Act,  
17       with respect to the provision of flood insurance cov-  
18       erage for pre-FIRM properties (as such term is de-  
19       fined in section 578(b) of the National Flood Insur-  
20       ance Reform Act of 1994 (42 U.S.C. 4014 note)),  
21       which shall include determinations of—

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

1 (B) the cost of providing coverage for such  
2 pre-FIRM properties to the national flood in-  
3 surance program;

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

7 (D) the effects that implementation of the  
8 Bunning-Bereuter-Blumenauer Flood Insurance  
9 Reform Act of 2004 will have on the national  
10 flood insurance program generally and on cov-  
11 erage of pre-FIRM properties under the pro-  
12 gram; and

13 (E) the extent to which eligibility stand-  
14 ards for pre-FIRM properties were inconsistent  
15 and resulted in disparities in coverage among  
16 such properties.

17 (2) MANDATORY PURCHASE REQUIREMENT FOR  
18 NATURAL 100-YEAR FLOODPLAIN.—The study shall  
19 assess the impact, effectiveness, and feasibility of  
20 amending the provisions of the Flood Disaster Pro-  
21 tection Act of 1973 regarding the properties that are  
22 subject to the mandatory flood insurance coverage  
23 purchase requirements under such Act to extend  
24 such requirements to properties located in any area  
25 that would be designated as an area having special

1 flood hazards but for the existence of a structural  
2 flood protection system, and shall determine—

3 (A) the regulatory, financial and economic  
4 impacts of extending such mandatory purchase  
5 requirements on the costs of homeownership,  
6 the actuarial soundness of the national flood in-  
7 surance program, the Federal Emergency Man-  
8 agement Agency, local communities, insurance  
9 companies, and local land use;

10 (B) the effectiveness of extending such  
11 mandatory purchase requirements in protecting  
12 homeowners from financial loss and in pro-  
13 tecting the financial soundness of the national  
14 flood insurance program; and

15 (C) any impact on lenders of complying  
16 with or enforcing such extended mandatory re-  
17 quirements.

18 (3) MANDATORY PURCHASE REQUIREMENT FOR  
19 NON-FEDERALLY RELATED LOANS.—The study shall  
20 assess the impact, effectiveness, and feasibility of,  
21 and basis under the Constitution of the United  
22 States for, amending the provisions of the Flood  
23 Disaster Protection Act of 1973 regarding the prop-  
24 erties that are subject to the mandatory flood insur-  
25 ance coverage purchase requirements under such Act

1 to extend such requirements to any property that is  
2 located in any area having special flood hazards and  
3 which secures the repayment of a loan that is not  
4 described in paragraph (1), (2), or (3) of section  
5 102(b) of such Act, and shall determine how best to  
6 administer and enforce such a requirement, taking  
7 into consideration other insurance purchase require-  
8 ments under Federal and State law.

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

14 **SEC. 4. PHASE-IN OF ACTUARIAL RATES FOR NONRESIDEN-**  
15 **TIAL PROPERTIES, CERTAIN PRE-FIRM PROP-**  
16 **ERTIES, AND NON-PRIMARY RESIDENCES.**

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

20 (1) by redesignating paragraph (2) as para-  
21 graph (4); and

22 (2) by inserting after paragraph (1) the fol-  
23 lowing new paragraphs:

24 “(2) NONRESIDENTIAL PROPERTIES.—Any non-  
25 residential property.

1           “(3) NON-PRIMARY RESIDENCES.—Any residen-  
2           tial property that is not the primary residence of an  
3           individual.

4           “(4) RECENTLY PURCHASED PRE-FIRM PROP-  
5           ERTIES.—Any property that—

6                   “(A) has been constructed or substantially  
7                   improved and for which such construction or  
8                   improvement was started, as determined by the  
9                   Director, before December 31, 1974, or before  
10                  the effective date of the initial rate map pub-  
11                  lished by the Director under paragraph (2) of  
12                  section 1360 for the area in which such prop-  
13                  erty is located, whichever is later; and

14                   “(B) is purchased after the date of the en-  
15                  actment of the Flood Insurance Reform and  
16                  Modernization Act of 2006.”.

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

20                   (1) in subsection (c)—

21                           (A) in the matter preceding paragraph (1),  
22                           by striking “Subject only to the limitations pro-  
23                           vided under paragraphs (1) and (2), the” and  
24                           inserting “The”; and

1 (B) in paragraph (1), by striking “, ex-  
2 cept” and all that follows through “subsection  
3 (e)”; and

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

6 (c) EFFECTIVE DATE AND TRANSITION.—

7 (1) EFFECTIVE DATE.—The amendments made  
8 by subsections (a) and (b) shall apply beginning on  
9 the submission to the Congress, by the Director of  
10 the Federal Emergency Management Agency, of the  
11 report required under section 16(b)(2), except as  
12 provided in paragraph (2) of this subsection.

13 (2) TRANSITION.—In the case of any property  
14 described in paragraph (2), (3), or (4) of section  
15 1308(c) of the National Flood Insurance Act of  
16 1968, as amended by subsection (a) of this section,  
17 that, on the effective date under paragraph (1) of  
18 this subsection, is covered under a policy for flood  
19 insurance made available under the national flood  
20 insurance program for which the chargeable pre-  
21 mium rates are less than the applicable estimated  
22 risk premium rate under section 1307(a)(1) for the  
23 area in which the property is located, the Director  
24 of the Federal Emergency Management Agency shall  
25 increase the chargeable premium rates for such

1 property over time to such applicable estimated risk  
2 premium rate under section 1307(a)(1). Such in-  
3 crease shall be made by increasing the chargeable  
4 premium rates for the property (after application of  
5 any increase in the premium rates otherwise applica-  
6 ble to such property) by 15 percent (or such lesser  
7 amount as may be necessary so that the chargeable  
8 rate does not exceed such applicable estimated risk  
9 premium rate) once during the 12-month period that  
10 begins upon the effective date under paragraph (1)  
11 of this subsection and once every 12 months there-  
12 after until such increase is accomplished. The provi-  
13 sions of paragraphs (2), (3), and (4) of such section  
14 1308(e) shall apply to such a property upon the ac-  
15 complishment of such increase and thereafter.

16 **SEC. 5. WAITING PERIOD FOR EFFECTIVE DATE OF POLI-**  
17 **CIES.**

18 (a) REDUCTION.—Section 1306(c)(1) of the National  
19 Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) is  
20 amended by striking “30-day” and inserting “15-day”.

21 (b) EXCEPTION.—Section 1306(c)(2)(A) of the Na-  
22 tional Flood Insurance Act of 1968 (42 U.S.C.  
23 4013(c)(2)(A)) is amended by inserting before the semi-  
24 colon the following: “or is in connection with the purchase  
25 or other transfer of the property for which the coverage

1 is provided (regardless of whether a loan is involved in  
2 the purchase or transfer transaction).

3 **SEC. 6. ENFORCEMENT.**

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

6 (1) in paragraph (5)—

7 (A) in the first sentence, by striking  
8 “\$350” and inserting “\$2,000”; and

9 (B) in the last sentence, by striking  
10 “\$100,000” and inserting “\$1,000,000; except  
11 that such limitation shall not apply to a regu-  
12 lated lending institution or enterprise for a cal-  
13 endar year if, in any three (or more) of the five  
14 calendar years immediately preceding such cal-  
15 endar year, the total amount of penalties as-  
16 sessed under this subsection against such lend-  
17 ing institution or enterprise was \$1,000,000”;  
18 and

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

1 **SEC. 7. MAXIMUM COVERAGE LIMITS.**

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

4 (1) in paragraph (2), by striking “\$250,000”  
5 and inserting “\$335,000”;

6 (2) in paragraph (3), by striking “\$100,000”  
7 and inserting “\$135,000”; and

8 (3) in paragraph (4), by striking “\$500,000”  
9 each place such term appears and inserting  
10 “\$670,000”.

11 **SEC. 8. COVERAGE FOR ADDITIONAL LIVING EXPENSES,**  
12 **BASEMENT IMPROVEMENTS, BUSINESS**  
13 **INTERRUPTION, AND REPLACEMENT COST**  
14 **OF CONTENTS.**

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

17 (1) in paragraph (4), by striking “and” at the  
18 end;

19 (2) in paragraph (5)—

20 (A) by inserting “pursuant to paragraph  
21 (2), (3), or (4)” after “any flood insurance cov-  
22 erage”; and

23 (B) by striking the period at the end and  
24 inserting a semicolon; and

25 (3) by adding at the end the following new  
26 paragraphs:

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

11          “(7) in the case of any residential property, optional  
12          coverage for additional living expenses described in paragraph (6) shall be made available to  
13          every insured upon renewal and every applicant in  
14          excess of the limits provided in paragraph (6) in  
15          such amounts and at such rates as the Director  
16          shall establish, except that such chargeable rates  
17          shall not be less than the estimated premium rates  
18          for such coverage determined in accordance with section  
19          1307(a)(1);

21          “(8) in the case of any residential property, optional  
22          coverage for losses, resulting from floods, to  
23          improvements and personal property located in basements,  
24          crawl spaces, and other enclosed areas under  
25          buildings that are not covered by primary flood in-

1       surance coverage under this title, shall be made  
2       available to every insured upon renewal and every  
3       applicant, except that such coverage shall be made  
4       available only at chargeable rates that are not less  
5       than the estimated premium rates for such coverage  
6       determined in accordance with section 1307(a)(1);

7               “(9) in the case of any commercial property,  
8       optional coverage for losses resulting from any par-  
9       tial or total interruption of the insured’s business  
10      caused by damage to, or loss of, such property from  
11      a flood shall be made available to every insured upon  
12      renewal and every applicant, except that—

13                   “(A) for purposes of such coverage, losses  
14                   shall be determined based on the profits the  
15                   covered business would have earned, based on  
16                   previous financial records, had the flood not oc-  
17                   curred; and

18                   “(B) such coverage shall be made available  
19                   only at chargeable rates that are not less than  
20                   the estimated premium rates for such coverage  
21                   determined in accordance with section  
22                   1307(a)(1); and

23               “(10) in the case of any residential property  
24      and any commercial property, optional coverage for  
25      the full replacement costs of any contents related to

1 the structure that exceed the limits of coverage oth-  
2 erwise provided in this subsection shall be made  
3 available to every insured upon renewal and every  
4 applicant, except that such coverage shall be made  
5 available only at chargeable rates that are not less  
6 than the estimated premium rates for such coverage  
7 determined in accordance with section 1307(a)(1).”.

8 **SEC. 9. INCREASE IN ANNUAL LIMITATION ON PREMIUM IN-**  
9 **CREASES.**

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

13 **SEC. 10. INCREASE IN BORROWING AUTHORITY.**

14 (a) BORROWING AUTHORITY.—The first sentence of  
15 subsection (a) of section 1309 of the National Flood In-  
16 surance Act of 1968 (42 U.S.C. 4016(a)), as amended by  
17 the National Flood Insurance Program Further Enhanced  
18 Borrowing Authority Act of 2005 (Public Law 109–106;  
19 119 Stat. 2288), is amended by striking  
20 “\$20,775,000,000” and inserting “\$25,000,000,000”.

21 (b) FEMA REPORT.—Not later than the expiration  
22 of the 6-month period beginning on the date of the enact-  
23 ment of this Act, the Director of the Federal Emergency  
24 Management Agency shall submit a report to the Congress  
25 setting forth a plan for repaying any amounts borrowed

1 pursuant to increase in borrowing authority authorized  
2 under the amendments made by subsection (a).

3 **SEC. 11. FEMA PARTICIPATION IN STATE DISASTER CLAIMS**  
4 **MEDIATION PROGRAMS.**

5 The National Flood Insurance Act of 1968 is amend-  
6 ed by inserting after section 1313 (42 U.S.C. 4020) the  
7 following new section:

8 **“SEC. 1314. FEMA PARTICIPATION IN STATE DISASTER**  
9 **CLAIMS MEDIATION PROGRAMS.**

10 “(a) REQUIREMENT TO PARTICIPATE.—In the case  
11 of the occurrence of a natural catastrophe that may have  
12 resulted in flood damage covered by insurance made avail-  
13 able under the National Flood Insurance Program and a  
14 loss covered by personal lines residential property insur-  
15 ance policy, upon request made by the insurance commis-  
16 sioner of a State (or such other official responsible for reg-  
17 ulating the business of insurance in the State) for the par-  
18 ticipation of representatives of the Director in a program  
19 sponsored by such State for nonbinding mediation of in-  
20 surance claims resulting from a natural catastrophe, the  
21 Director shall cause such representatives to participate in  
22 such State program, when claims under the national flood  
23 insurance program are involved, to expedite settlement of  
24 flood damage claims resulting from such catastrophe.”.

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

5           “(1) providing adjusters certified for purposes  
6 of the national flood insurance program who are au-  
7 thorized to settle claims against such program re-  
8 sulting from such catastrophe in amounts up to the  
9 limits of policies under such program;

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

14          “(3) participating in good-faith negotiations to-  
15 ward the settlement of such claims with policy-  
16 holders of coverage made available under the na-  
17 tional flood insurance program; and

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

21       “(c) COORDINATION.—Representatives of the Direc-  
22 tor who participate pursuant to this section in a State-  
23 sponsored mediation program with respect to a natural ca-  
24 tastrophe shall at all times coordinate their activities with  
25 insurance officials of the State and representatives of in-

1 surers for the purpose of consolidating and expediting the  
2 settlement of claims under the national flood insurance  
3 program resulting from such catastrophe at the earliest  
4 possible time.

5       “(d) MEDIATION PROCEEDINGS AND PRIVILEGED  
6 DOCUMENTS.—As a condition of the participation of Rep-  
7 resentatives of the Director pursuant to this section in  
8 State-sponsored mediation, all statements made and docu-  
9 ments produced pursuant to such mediation involving rep-  
10 resentatives of the Director shall be deemed privileged and  
11 confidential settlement negotiations made in anticipation  
12 of litigation.

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

22       “(f) EXCLUSIVE FEDERAL JURISDICTION.—Partici-  
23 pation of Representatives of the Director pursuant to this  
24 section in State-sponsored mediation shall not alter,

1 change or modify the original exclusive jurisdiction of  
2 United States courts as provided in this Act.

3 “(g) COST LIMITATION.—Nothing in this section  
4 shall be construed to require the Director or representa-  
5 tives of the Director to pay additional mediation fees relat-  
6 ing to flood claims associated with a State-sponsored me-  
7 diation program in which representatives of the Director  
8 participate.

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

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

15 “(2) the provisions of the Standard Flood In-  
16 surance Policy under the national flood insurance  
17 program and the appeals process established pursu-  
18 ant to section 205 of the Bunning-Bereueter-  
19 Blumenauer Flood Insurance Reform Act of 2004  
20 (Public Law 108–264; 118 Stat. 726) and regula-  
21 tions issued pursuant to such section shall apply ex-  
22 clusively.

23 “(i) REPRESENTATIVES OF DIRECTOR.—For pur-  
24 poses of this section, the term ‘representatives of the Di-  
25 rector’ means representatives of the national flood insur-

1 ance program who participate in the appeals process es-  
2 tablished pursuant to section 205 of the Bunning-  
3 Bereueter-Blumenauer Flood Insurance Reform Act of  
4 2004 (Public Law 108–264; 118 Stat. 726) and regula-  
5 tions issued pursuant to such section.”.

6 **SEC. 12. FEMA REPORTS ON FINANCIAL STATUS OF INSUR-**  
7 **ANCE PROGRAM.**

8 Section 1320 of the National Flood Insurance Act of  
9 1968 (42 U.S.C. 4027) is amended—

10 (1) in the section heading, by striking “RE-  
11 PORT TO THE PRESIDENT” and inserting “RE-  
12 PORTS”;

13 (2) in subsection (a), by striking “IN GEN-  
14 ERAL” and inserting “BIENNIAL REPORT TO PRESI-  
15 DENT”; and

16 (3) by adding at the end the following new sub-  
17 section:

18 “(c) SEMIANNUAL REPORTS TO CONGRESS ON FI-  
19 NANCIAL STATUS.—Not later than June 30 and December  
20 31 of each year, the Director shall submit a report to the  
21 Congress regarding the financial status of the national  
22 flood insurance program under this title. Each such report  
23 shall describe the financial status of the National Flood  
24 Insurance Fund and current and projected levels of

1 claims, premium receipts, expenses, and borrowing under  
2 the program.”.

3 **SEC. 13. EXTENSION OF PILOT PROGRAM FOR MITIGATION**  
4 **OF SEVERE REPETITIVE LOSS PROPERTIES.**

5 Section 1361A of the National Flood Insurance Act  
6 of 1968 (42 U.S.C. 4102a) is amended as follows:

7 (1) FUNDING.—In subsection (k)(1), by strik-  
8 ing “and 2009” and inserting “2009, 2010, and  
9 2011”.

10 (2) TERMINATION.—In subsection (l), by strik-  
11 ing “September 30, 2009” and inserting “September  
12 30, 2011”.

13 **SEC. 14. NOTICE OF AVAILABILITY OF FLOOD INSURANCE**  
14 **AND ESCROW IN RESPA GOOD FAITH ESTI-**  
15 **MATE.**

16 Subsection (c) of section 5 of the Real Estate Settle-  
17 ment Procedures Act of 1974 (12 U.S.C. 2604(c)) is  
18 amended by adding at the end the following new sentence:  
19 “Each such good faith estimate shall include the following  
20 conspicuous statements: (1) that flood insurance coverage  
21 for residential real estate is generally available under the  
22 National Flood Insurance Program whether or not the  
23 real estate is located in an area having special flood haz-  
24 ards and that, to obtain such coverage, a home owner or  
25 purchaser should contact a property insurance agent,

1 broker, or company; and (2) that the escrowing of flood  
2 insurance payments is required for many loans under sec-  
3 tion 102(d) of the Flood Disaster Protection Act of 1973,  
4 and may be a convenient and available option with respect  
5 to other loans.”.

6 **SEC. 15. REITERATION OF FEMA RESPONSIBILITIES UNDER**  
7 **2004 REFORM ACT.**

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

18 (b) MINIMUM TRAINING AND EDUCATION REQUIRE-  
19 MENTS.—The Director of the Federal Emergency Man-  
20 agement Agency is directed to continue to work with the  
21 insurance industry, State insurance regulators, and other  
22 interested parties to implement the minimum training and  
23 education standards for all insurance agents who sell flood  
24 insurance policies that were established by the Director  
25 under the notice published September 1, 2005 (70 Fed.

1 Reg. 52117) pursuant to section 207 of the Bunning-Be-  
2 reuter-Blumenauer Flood Insurance Reform Act of 2004  
3 (42 U.S.C. 4011 note).

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

13 **SEC. 16. UPDATING OF FLOOD MAPS AND ELEVATION**  
14 **STANDARDS.**

15 (a) FLOOD MAPPING PROGRAM.—Section 1360 of  
16 the National Flood Insurance Act of 1968 (42 U.S.C.  
17 4101) is amended by adding at the end the following new  
18 subsection:

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

21 “(1) IN GENERAL.—The Director, in coordina-  
22 tion with the Technical Mapping Advisory Council  
23 established pursuant to section 576 of the National  
24 Flood Insurance Reform Act of 1994 (42 U.S.C.  
25 4101 note) and section 16(c) of the Flood Insurance

1 Reform and Modernization Act of 2006, shall estab-  
2 lish a program under which the Director shall re-  
3 view, update, and maintain national flood insurance  
4 program rate maps in accordance with this sub-  
5 section.

6 “(2) INCLUSIONS.—

7 “(A) COVERED AREAS.—Each map up-  
8 dated under this subsection shall include a de-  
9 picture of—

10 “(i) the 500-year floodplain;

11 “(ii) areas that could be inundated as  
12 a result of the failure of a levee, as deter-  
13 mined by the Director; and

14 “(iii) areas that could be inundated as  
15 a result of the failure of a dam, as identi-  
16 fied under the National Dam Safety Pro-  
17 gram Act (33 U.S.C. 467 et seq.).

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

21 “(i) any relevant information on  
22 coastal inundation from—

23 “(I) an applicable inundation  
24 map of the Corps of Engineers; and

1                   “(II) data of the National Ocea-  
2                   nic and Atmospheric Administration  
3                   relating to storm surge modeling;

4                   “(ii) any relevant information of the  
5                   Geographical Service on stream flows, wa-  
6                   tershed characteristics, and topography  
7                   that is useful in the identification of flood  
8                   hazard areas, as determined by the Direc-  
9                   tor; and

10                   “(iii) a description of any hazard that  
11                   might impact flooding, including, as deter-  
12                   mined by the Director—

13                   “(I) land subsidence and coastal  
14                   erosion areas;

15                   “(II) sediment flow areas;

16                   “(III) mud flow areas;

17                   “(IV) ice jam areas; and

18                   “(V) areas on coasts and inland  
19                   that are subject to the failure of  
20                   structural protective works, such as  
21                   levees, dams, and floodwalls.

22                   “(3) STANDARDS.—In updating and maintain-  
23                   ing maps under this subsection, the Director shall  
24                   establish standards to—

25                   “(A) ensure that maps are adequate for—

1 “(i) flood risk determinations; and

2 “(ii) use by State and local govern-  
3 ments in managing development to reduce  
4 the risk of flooding;

5 “(B) facilitate the Director, in conjunction  
6 with State and local governments, to identify  
7 and use consistent methods of data collection  
8 and analysis in developing maps for commu-  
9 nities with similar flood risks, as determined by  
10 the Director; and

11 “(C) ensure that emerging weather fore-  
12 casting technology is used, where practicable, in  
13 flood map evaluations and the identification of  
14 potential risk areas.

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

18 “(A) give priority to the updating and  
19 maintenance of maps of coastal areas affected  
20 by Hurricane Katrina or Hurricane Rita to pro-  
21 vide guidance with respect to hurricane recovery  
22 efforts; and

23 “(B) use the process of updating and  
24 maintaining maps under subparagraph (A) as a

1           model for updating and maintaining other  
2           maps.

3           “(5) EDUCATION PROGRAM.—The Director  
4           shall, after each update to a flood insurance pro-  
5           gram rate map, in consultation with the chief execu-  
6           tive officer of each community affected by the up-  
7           date, conduct a program to educate each such com-  
8           munity about the update to the flood insurance pro-  
9           gram rate map and the effects of the update.

10           “(6) ANNUAL REPORT.—Not later than June  
11           30 of each year, the Director shall submit a report  
12           to the Congress describing, for the preceding 12-  
13           month period, the activities of the Director under  
14           the program under this section and the reviews and  
15           updates of flood insurance program rate maps con-  
16           ducted under the program. Each such annual report  
17           shall contain the most recent report of the Technical  
18           Mapping Advisory Council pursuant to section  
19           576(c)(3) of the National Flood Insurance Reform  
20           Act of 1994 (42 U.S.C. 4101 note).

21           “(7) AUTHORIZATION OF APPROPRIATIONS.—  
22           There is authorized to be appropriated to the Direc-  
23           tor to carry out this subsection \$300,000,000 for  
24           each of fiscal years 2007 through 2012.”.

1 (b) ONE-TIME REVIEW AND UPDATING OF ALL  
2 FLOOD ZONES AND ANNUAL MAP MODERNIZATION RE-  
3 PORTS.—

4 (1) REQUIRED REVISION.—The Director of the  
5 Federal Emergency Management Agency shall, as  
6 soon as possible after the date of the enactment of  
7 this Act, conduct a review of all floodplain areas and  
8 flood-risk zones identified, delineated, or established  
9 pursuant to such section 1360 and shall revise and  
10 update all such areas and zones. The revisions and  
11 updating under this paragraph shall not be subject  
12 to the requirements of section 1360(k) of the Na-  
13 tional Flood Insurance Act of 1968 (as added by  
14 subsection (a) of this section).

15 (2) CERTIFICATION OF COMPLETION.—Upon  
16 completing the review, revision, and updating re-  
17 quired under paragraph (1), the Director shall sub-  
18 mit to the Congress a report certifying such comple-  
19 tion.

20 (3) ANNUAL REPORTS.—During the period that  
21 ends upon certification under paragraph (2) of this  
22 subsection by the Director, the Director shall include  
23 in the annual report required under section  
24 1360(k)(5) of the National Flood Insurance Act of  
25 1968 (as added by subsection (a) of this section) a

1 description of the extent to which the review and up-  
2 dating required under paragraph (1) of this sub-  
3 section has been completed.

4 (c) REESTABLISHMENT OF TECHNICAL MAPPING  
5 ADVISORY COUNCIL.—

6 (1) REESTABLISHMENT.—There is reestab-  
7 lished the Technical Mapping Advisory Council, in  
8 accordance with this subsection and section 576 of  
9 the National Flood Insurance Reform Act of 1994  
10 (42 U.S.C. 4101 note).

11 (2) MEMBERSHIP.—Paragraph (1) of section  
12 576(b) of the National Flood Insurance Reform Act  
13 of 1994 (42 U.S.C. 4101 note) is amended—

14 (A) by redesignating subparagraphs (E),  
15 (F), (G), (H), (I), and (J) as subparagraphs  
16 (F), (G), (H), (K), (M), and (N), respectively;

17 (B) by inserting after subparagraph (D)  
18 the following new subparagraph:

19 “(E) a representative of the Corps of Engi-  
20 neers of the United States Army;”;

21 (C) by inserting after subparagraph (H)  
22 (as so redesignated by subparagraph (A) of this  
23 paragraph) the following new subparagraphs:

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

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

3           (D) by inserting after subparagraph (K)  
4 (as so redesignated by subparagraph (A) of this  
5 paragraph) the following new subparagraph:

6           “(L) a representative of flood insurance  
7 servicing companies;”.

8           (3) APPOINTMENT.—The Director of the Fed-  
9 eral Emergency Management Agency, or the Direc-  
10 tor’s designee, shall take action as soon as possible  
11 after the date of the enactment of this Act to ap-  
12 point the members of the Technical Mapping Advi-  
13 sory Council pursuant to section 576(b)(1) of the  
14 National Flood Insurance Reform Act of 1994, as  
15 amended by paragraph (2) of this subsection.

16           (4) DUTIES.—Subsection (c) of section 576 of  
17 the National Flood Insurance Reform Act of 1994  
18 (42 U.S.C. 4101 note) is amended to read as fol-  
19 lows:

20           “(c) DUTIES.—The Council shall—

21           “(1) make recommendations to the Director for  
22 improvements to the flood map modernization pro-  
23 gram under section 1360(k) of the National Flood  
24 Insurance Act of 1968 (42 U.S.C. 41010(k));

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

4           “(3) submit an annual report to the Director  
5           that contains a description of the activities and rec-  
6           ommendations of the Council.”.

7           (5) TERMINATION.—Subsection (k) of section  
8           576 of the National Flood Insurance Reform Act of  
9           1994 (42 U.S.C. 4101 note) is amended by striking  
10          “under subsection (b)(1)” and inserting “pursuant  
11          to subsection (b)(1) of this section and section  
12          16(c)(3) of the Flood Insurance Reform and Mod-  
13          ernization Act of 2006”.

14          (d) POST-DISASTER FLOOD ELEVATION DETER-  
15          MINATIONS.—Section 1361 of the National Flood Insur-  
16          ance Act of 1968 (42 U.S.C. 4101), as amended by the  
17          preceding provisions of this Act, is further amended by  
18          adding at the end the following new subsection:

19          “(1) INTERIM POST-DISASTER FLOOD ELE-  
20          VATIONS.—

21                 “(1) AUTHORITY.—Notwithstanding any other  
22                 provision of this section or section 1363, the Direc-  
23                 tor may, after any flood-related disaster, establish by  
24                 order interim flood elevation requirements for pur-

1 poses of the national flood insurance program for  
2 any areas affected by such flood-related disaster.

3 “(2) EFFECTIVENESS.—Such interim elevation  
4 requirements for such an area shall take effect im-  
5 mediately upon issuance and may remain in effect  
6 until the Director establishes new flood elevations  
7 for such area in accordance with section 1363 or the  
8 Director provides otherwise.”.

9 (e) GAO STUDY OF LOW-INCOME DISCOUNT.—

10 (1) IN GENERAL.—The Comptroller General of  
11 the United States shall conduct a study of potential  
12 methods, practices, and incentives that would in-  
13 crease the extent to which low-income families (as  
14 such term is defined in section 3(b) of the United  
15 States Housing Act of 1937 (42 U.S.C. 1437a(b)))  
16 that own residential properties located within areas  
17 having special flood hazards purchase flood insur-  
18 ance coverage under the national flood insurance  
19 program. In conducting the study the Comptroller  
20 General shall analyze—

21 (A) the feasibility and effectiveness of pro-  
22 viding such coverage to low-income families at  
23 rates that are discounted from the rates at  
24 which such coverage is otherwise provided, the  
25 amounts by which such rates should be dis-

1 counted to ensure that coverage is affordable to  
2 such families and to encourage purchase of cov-  
3 erage by such families, and the effects of such  
4 discounts on the national flood insurance pro-  
5 gram; and

6 (B) the extent to which residential prop-  
7 erties occupied by low-income families would be  
8 affected by expanding the mandatory purchase  
9 requirements of the national flood insurance  
10 program to the areas included in the national  
11 flood insurance program rate maps pursuant to  
12 section 1360(k) of the National Flood Insur-  
13 ance Act of 1968 (42 U.S.C. 4101(k)), as  
14 amended by subsection (a) of this section.

15 (2) REPORT.—The Comptroller General shall  
16 submit to the Congress a report setting forth the  
17 conclusions of the study under this subsection not  
18 later than 12 months after the date of the enact-  
19 ment of this Act.

20 **SEC. 17. NOTIFICATION AND APPEAL OF MAP CHANGES;**  
21 **NOTIFICATION OF ESTABLISHMENT OF**  
22 **FLOOD ELEVATIONS.**

23 Section 1363 of the National Flood Insurance Act of  
24 1968 (42 U.S.C. 4104) is amended by striking the section

1 designation and all that follows through the end of sub-  
2 section (a) and inserting the following:

3       “SEC. 1363. (a) In establishing projected flood ele-  
4 vations for land use purposes with respect to any commu-  
5 nity pursuant to section 1361, the Director shall first pro-  
6 pose such determinations—

7           “(1) by providing the chief executive officer of  
8 each community affected by the proposed elevations,  
9 by certified mail, with a return receipt requested,  
10 notice of the elevations, including a copy of the maps  
11 for the elevations for such community and a state-  
12 ment explaining the process under this section to ap-  
13 peal for changes in such elevations;

14           “(2) by causing notice of such elevations to be  
15 published in the Federal Register, which notice shall  
16 include information sufficient to identify the ele-  
17 vation determinations and the communities affected,  
18 information explaining how to obtain copies of the  
19 elevations, and a statement explaining the process  
20 under this section to appeal for changes in the ele-  
21 vations;

22           “(3) by publishing the elevations in a prominent  
23 local newspaper; and

1           “(4) by providing written notification, by first  
2           class mail, to each owner of real property affected by  
3           the proposed elevations of—

4                   “(A) the status of such property, both  
5                   prior to and after the effective date of the pro-  
6                   posed determination, with respect to flood zone  
7                   and flood insurance requirements under this  
8                   Act and the Flood Disaster Protection Act of  
9                   1973;

10                   “(B) the process under this section to ap-  
11                   peal a flood elevation determination; and

12                   “(C) the mailing address and phone num-  
13                   ber of a person the owner may contact for more  
14                   information or to initiate an appeal.”.

15 **SEC. 18. NATIONAL LEVEE INVENTORY.**

16           To identify levees for the national flood insurance  
17           program, the Director of the Federal Emergency Manage-  
18           ment Agency shall maintain and periodically publish an  
19           inventory of levees in the United States, and shall consult  
20           with the Secretary of the Army as necessary to maintain  
21           such inventory.

22 **SEC. 19. CLARIFICATION OF REPLACEMENT COST PROVI-**  
23 **SIONS, FORMS, AND POLICY LANGUAGE.**

24           Not later than the expiration of the 3-month period  
25           beginning on the date of the enactment of this Act, the

1 Director of the Federal Emergency Management Agency  
2 shall—

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

8           (2) in plain language using easy to understand  
9 terms and concepts, revise any regulations, forms,  
10 notices, guidance, and publications relating to the  
11 full cost of repair or replacement under the replace-  
12 ment cost coverage to more clearly describe such  
13 coverage to flood insurance policyholders and infor-  
14 mation to be provided by such policyholders relating  
15 to such coverage, and to avoid providing misleading  
16 information to such policyholders;

17           (3) revise the language in standard flood insur-  
18 ance policies under such program regarding rating  
19 and coverage descriptions in a manner that is con-  
20 sistent with language used widely in other home-  
21 owners and property and casualty insurance policies,  
22 including such language regarding classification of  
23 buildings, basements, crawl spaces, detached ga-  
24 rages, enclosures below elevated buildings, and re-  
25 placement costs; and

1           (4) include in each standard flood insurance  
2           policy a one-page description of the policy using  
3           plain language and easy to understand terms and  
4           concepts.

5 **SEC. 20. AUTHORIZATION OF ADDITIONAL FEMA STAFF.**

6           Notwithstanding any other provision of law, the Di-  
7           rector of the Federal Emergency Management Agency  
8           may employ such additional staff of such Agency as may  
9           be necessary to carry out all of the responsibilities of the  
10          Director pursuant to this Act and the amendments made  
11          by this Act. There are authorized to be appropriated to  
12          Director such sums as may be necessary for costs of em-  
13          ploying such additional staff.

14 **SEC. 21. INVESTIGATION OF WRITE-YOUR-OWN INSURERS'**

15                               **ADJUSTMENT OF CLAIMS RELATING TO HUR-**  
16                               **RICANE KATRINA.**

17          (a) INVESTIGATION.—The Inspector General of the  
18          Department of Homeland Security shall carry out an in-  
19          vestigation of insurers making flood insurance coverage  
20          available under the Write-Your-Own program pursuant to  
21          section 1345 of the National Flood Insurance Act of 1968  
22          (42 U.S.C. 4081) and subpart C of part 62 of title 44,  
23          Code of Federal Regulations to determine—

24                       (1) whether any such insurers, in adjusting and  
25                       settling claims resulting from Hurricane Katrina,

1       improperly attributed damages from such hurricane  
2       to flooding covered under coverage provided under  
3       the national flood insurance program rather than to  
4       windstorms covered by other coverage provided by  
5       such insurers or by windstorm insurance pools in  
6       which such insurers participated; and

7               (2) the extent to which such improper attribu-  
8       tion of damages occurred.

9       (b) REPORT.—Not later than the expiration of the  
10      6-month period that begins upon the date of the enact-  
11      ment of this Act, the Inspector General of the Department  
12      of Homeland Security shall submit to the Congress a re-  
13      port setting forth the conclusions of the investigation pur-  
14      suant to subsection (a).

15      **SEC. 22. ELIGIBILITY OF PROPERTY DEMOLITION AND RE-**  
16                      **BUILDING FOR MITIGATION ASSISTANCE**  
17                      **PROGRAM.**

18       Section 1366(e)(5)(B) of the National Flood Insur-  
19      ance Act of 1968 (42 U.S.C. 4104c(e)(5)(B)) is amended  
20      by inserting after “flood risk” the following: “, or the dem-  
21      olition and rebuilding of structures located in such areas  
22      to at least Base Flood Elevation or any greater elevation  
23      required by any local ordinance”.

1 **SEC. 23. SAMPLING METHODS FOR QUALITY ASSURANCE.**

2 Section 1345 of the National Flood Insurance Act of  
3 1968 (42 U.S.C. 4081) is amended by adding at the end  
4 the following new subsection:

5 “(d) SAMPLING METHODS FOR QUALITY ASSUR-  
6 ANCE.—In selecting the cases and claims for operational  
7 reviews and claims re-inspections regarding the national  
8 flood insurance program under this title, the Director shall  
9 use a statistically valid probability sample whose results  
10 can be generalized to the entire population of reviews and  
11 claims from which the sample is drawn and whose sam-  
12 pling error can be quantified.”.

13 **SEC. 24. EXTENSION OF DEADLINE FOR FILING PROOF OF**  
14 **LOSS.**

15 (a) IN GENERAL.—Section 1312 of the National  
16 Flood Insurance Act of 1968 (42 U.S.C. 4019) is amend-  
17 ed—

18 (1) by inserting “(a) PAYMENT.—” before “The  
19 Director”; and

20 (2) by adding at the end the following new sub-  
21 section:

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

23 “(1) IN GENERAL.—In establishing any require-  
24 ments regarding notification, proof, or approval of  
25 claims for damage to or loss of property which is  
26 covered by flood insurance made available under this

1 title, the Director may not require an insured to no-  
2 tify the Director of such damage or loss, submit a  
3 claim for such damage or loss, or certify to or sub-  
4 mit proof of such damage or loss, before the expira-  
5 tion of the 180-day period that begins on the date  
6 that such damage or loss occurred.

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

13 (b) APPLICABILITY.—Subsection (b) of section 1312  
14 of the National Flood Insurance Act of 1968, as added  
15 by subsection (a)(2) of this section, shall apply with re-  
16 spect to any claim under which the damage to or loss of  
17 property occurred on or after September 18, 2003.

Passed the House of Representatives June 27, 2006.

Attest:

*Clerk.*



109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# **H. R. 4973**

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## **AN ACT**

To restore the financial solvency of the national flood insurance program, and for other purposes.