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109TH CONGRESS
2^D SESSION**H. R. 4973**

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2006

Received; read twice and placed on the calendar

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,*

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Flood Insurance Reform and Modernization Act of
6 2006”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 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.

1 **SEC. 2. FINDINGS AND PURPOSES.**

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

3 (1) flooding has been shown to occur in all 50
4 States;

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

12 (3) flood insurance policyholders have a legiti-
13 mate expectation that they will receive fair and time-

1 ly compensation for losses covered under their poli-
2 cies;

3 (4) substantial flooding has occurred, and will
4 likely occur again, outside the areas designated by
5 the Federal Emergency Management Agency as
6 flood hazard areas;

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

10 (6) about 450,000 vacation homes, second
11 homes, and commercial properties are subsidized
12 and are not paying actuarially sound rates for flood
13 insurance;

14 (7) phasing out subsidies currently extended to
15 vacation homes, second homes, and commercial
16 properties would result in estimated average savings
17 to the taxpayers of the United States and the na-
18 tional flood insurance program of \$335,000,000
19 each year;

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

23 (9) significant reforms to the national flood in-
24 surance program required in the Bunning-Bereuter-

1 Blumenauer Flood Insurance Reform Act of 2004
2 have yet to be implemented; and

3 (10) in addition to reforms required in the
4 Bunning-Bereuter-Blumenauer Flood Insurance Re-
5 form Act of 2004, the national flood insurance pro-
6 gram requires a modernized and updated adminis-
7 trative model to ensure that the program is solvent
8 and the people of the United States have continued
9 access to flood insurance.

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

11 (1) to protect the integrity of the national flood
12 insurance program by fully funding existing legal ob-
13 ligations expected by existing policyholders who have
14 paid policy premiums in return for flood insurance
15 coverage;

16 (2) to increase incentives for homeowners and
17 communities to participate in the national flood in-
18 surance program and to improve oversight to ensure
19 full participation in the program for owners of prop-
20 erties for which such participation is mandatory; and

21 (3) to increase awareness of homeowners of
22 flood risks and improve the quality of information
23 regarding such risks provided to homeowners.

1 **SEC. 3. STUDY REGARDING STATUS OF PRE-FIRM PROP-**
2 **ERTIES AND MANDATORY PURCHASE RE-**
3 **QUIREMENT FOR NATURAL 100-YEAR FLOOD-**
4 **PLAIN AND NON-FEDERALLY RELATED**
5 **LOANS.**

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

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

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

19 (B) the cost of providing coverage for such
20 pre-FIRM properties to the national flood in-
21 surance program;

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

25 (D) the effects that implementation of the
26 Bunning-Bereuter-Blumenauer Flood Insurance

1 Reform Act of 2004 will have on the national
2 flood insurance program generally and on cov-
3 erage of pre-FIRM properties under the pro-
4 gram; and

5 (E) the extent to which eligibility stand-
6 ards for pre-FIRM properties were inconsistent
7 and resulted in disparities in coverage among
8 such properties.

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

20 (A) the regulatory, financial and economic
21 impacts of extending such mandatory purchase
22 requirements on the costs of homeownership,
23 the actuarial soundness of the national flood in-
24 surance program, the Federal Emergency Man-

1 agement Agency, local communities, insurance
2 companies, and local land use;

3 (B) the effectiveness of extending such
4 mandatory purchase requirements in protecting
5 homeowners from financial loss and in pro-
6 tecting the financial soundness of the national
7 flood insurance program; and

8 (C) any impact on lenders of complying
9 with or enforcing such extended mandatory re-
10 quirements.

11 (3) MANDATORY PURCHASE REQUIREMENT FOR
12 NON-FEDERALLY RELATED LOANS.—The study shall
13 assess the impact, effectiveness, and feasibility of,
14 and basis under the Constitution of the United
15 States for, amending the provisions of the Flood
16 Disaster Protection Act of 1973 regarding the prop-
17 erties that are subject to the mandatory flood insur-
18 ance coverage purchase requirements under such Act
19 to extend such requirements to any property that is
20 located in any area having special flood hazards and
21 which secures the repayment of a loan that is not
22 described in paragraph (1), (2), or (3) of section
23 102(b) of such Act, and shall determine how best to
24 administer and enforce such a requirement, taking

1 into consideration other insurance purchase require-
2 ments under Federal and State law.

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

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

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

14 (1) by redesignating paragraph (2) as para-
15 graph (4); and

16 (2) by inserting after paragraph (1) the fol-
17 lowing new paragraphs:

18 “(2) NONRESIDENTIAL PROPERTIES.—Any non-
19 residential property.

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

23 “(4) RECENTLY PURCHASED PRE-FIRM PROP-
24 erties.—Any property that—

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

9 “(B) is purchased after the date of the en-
10 actment of the Flood Insurance Reform and
11 Modernization Act of 2006.”.

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

15 (1) in subsection (c)—

16 (A) in the matter preceding paragraph (1),
17 by striking “Subject only to the limitations pro-
18 vided under paragraphs (1) and (2), the” and
19 inserting “The”; and

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

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

25 (c) EFFECTIVE DATE AND TRANSITION.—

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

7 (2) TRANSITION.—In the case of any property
8 described in paragraph (2), (3), or (4) of section
9 1308(c) of the National Flood Insurance Act of
10 1968, as amended by subsection (a) of this section,
11 that, on the effective date under paragraph (1) of
12 this subsection, is covered under a policy for flood
13 insurance made available under the national flood
14 insurance program for which the chargeable pre-
15 mium rates are less than the applicable estimated
16 risk premium rate under section 1307(a)(1) for the
17 area in which the property is located, the Director
18 of the Federal Emergency Management Agency shall
19 increase the chargeable premium rates for such
20 property over time to such applicable estimated risk
21 premium rate under section 1307(a)(1). Such in-
22 crease shall be made by increasing the chargeable
23 premium rates for the property (after application of
24 any increase in the premium rates otherwise applica-
25 ble to such property) by 15 percent (or such lesser

1 amount as may be necessary so that the chargeable
2 rate does not exceed such applicable estimated risk
3 premium rate) once during the 12-month period that
4 begins upon the effective date under paragraph (1)
5 of this subsection and once every 12 months there-
6 after until such increase is accomplished. The provi-
7 sions of paragraphs (2), (3), and (4) of such section
8 1308(c) shall apply to such a property upon the ac-
9 complishment of such increase and thereafter.

10 **SEC. 5. WAITING PERIOD FOR EFFECTIVE DATE OF POLI-**
11 **CIES.**

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

15 (b) EXCEPTION.—Section 1306(c)(2)(A) of the Na-
16 tional Flood Insurance Act of 1968 (42 U.S.C.
17 4013(c)(2)(A)) is amended by inserting before the semi-
18 colon the following: “or is in connection with the purchase
19 or other transfer of the property for which the coverage
20 is provided (regardless of whether a loan is involved in
21 the purchase or transfer transaction).

22 **SEC. 6. ENFORCEMENT.**

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

25 (1) in paragraph (5)—

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

3 (B) in the last sentence, by striking
4 “\$100,000” and inserting “\$1,000,000; except
5 that such limitation shall not apply to a regu-
6 lated lending institution or enterprise for a cal-
7 endar year if, in any three (or more) of the five
8 calendar years immediately preceding such cal-
9 endar year, the total amount of penalties as-
10 sessed under this subsection against such lend-
11 ing institution or enterprise was \$1,000,000”;
12 and

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

20 **SEC. 7. MAXIMUM COVERAGE LIMITS.**

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

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

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

3 (3) in paragraph (4), by striking “\$500,000”
4 each place such term appears and inserting
5 “\$670,000”.

6 **SEC. 8. COVERAGE FOR ADDITIONAL LIVING EXPENSES,**
7 **BASEMENT IMPROVEMENTS, BUSINESS**
8 **INTERRUPTION, AND REPLACEMENT COST**
9 **OF CONTENTS.**

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

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

14 (2) in paragraph (5)—

15 (A) by inserting “pursuant to paragraph
16 (2), (3), or (4)” after “any flood insurance cov-
17 erage”; and

18 (B) by striking the period at the end and
19 inserting a semicolon; and

20 (3) by adding at the end the following new
21 paragraphs:

22 “(6) in the case of any residential property,
23 each renewal or new contract for flood insurance
24 coverage shall provide not less than \$1,000 aggre-
25 gate liability per dwelling unit for any necessary in-

1 creases in living expenses incurred by the insured
2 when losses from a flood make the residence unfit to
3 live in, which coverage shall be available only at
4 chargeable rates that are not less than the estimated
5 premium rates for such coverage determined in ac-
6 cordance with section 1307(a)(1);

7 “(7) in the case of any residential property, op-
8 tional coverage for additional living expenses de-
9 scribed in paragraph (6) shall be made available to
10 every insured upon renewal and every applicant in
11 excess of the limits provided in paragraph (6) in
12 such amounts and at such rates as the Director
13 shall establish, except that such chargeable rates
14 shall not be less than the estimated premium rates
15 for such coverage determined in accordance with sec-
16 tion 1307(a)(1);

17 “(8) in the case of any residential property, op-
18 tional coverage for losses, resulting from floods, to
19 improvements and personal property located in base-
20 ments, crawl spaces, and other enclosed areas under
21 buildings that are not covered by primary flood in-
22 surance coverage under this title, shall be made
23 available to every insured upon renewal and every
24 applicant, except that such coverage shall be made
25 available only at chargeable rates that are not less

1 than the estimated premium rates for such coverage
2 determined in accordance with section 1307(a)(1);

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

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

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

19 “(10) in the case of any residential property
20 and any commercial property, optional coverage for
21 the full replacement costs of any contents related to
22 the structure that exceed the limits of coverage oth-
23 erwise provided in this subsection shall be made
24 available to every insured upon renewal and every
25 applicant, except that such coverage shall be made

1 available only at chargeable rates that are not less
2 than the estimated premium rates for such coverage
3 determined in accordance with section 1307(a)(1).”.

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

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

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

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

17 (b) FEMA REPORT.—Not later than the expiration
18 of the 6-month period beginning on the date of the enact-
19 ment of this Act, the Director of the Federal Emergency
20 Management Agency shall submit a report to the Congress
21 setting forth a plan for repaying any amounts borrowed
22 pursuant to increase in borrowing authority authorized
23 under the amendments made by subsection (a).

1 **SEC. 11. FEMA PARTICIPATION IN STATE DISASTER CLAIMS**
2 **MEDIATION PROGRAMS.**

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

6 **“SEC. 1314. FEMA PARTICIPATION IN STATE DISASTER**
7 **CLAIMS MEDIATION PROGRAMS.**

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

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

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

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

10 “(3) participating in good-faith negotiations to-
11 ward the settlement of such claims with policy-
12 holders of coverage made available under the na-
13 tional flood insurance program; and

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

17 “(c) COORDINATION.—Representatives of the Direc-
18 tor who participate pursuant to this section in a State-
19 sponsored mediation program with respect to a natural ca-
20 tastrophe shall at all times coordinate their activities with
21 insurance officials of the State and representatives of in-
22 surers for the purpose of consolidating and expediting the
23 settlement of claims under the national flood insurance
24 program resulting from such catastrophe at the earliest
25 possible time.

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

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

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

23 “(g) COST LIMITATION.—Nothing in this section
24 shall be construed to require the Director or representa-
25 tives of the Director to pay additional mediation fees relat-

1 ing to flood claims associated with a State-sponsored me-
2 diation program in which representatives of the Director
3 participate.

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

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

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

18 “(i) REPRESENTATIVES OF DIRECTOR.—For pur-
19 poses of this section, the term ‘representatives of the Di-
20 rector’ means representatives of the national flood insur-
21 ance program who participate in the appeals process es-
22 tablished pursuant to section 205 of the Bunning-
23 Bereueter-Blumenauer Flood Insurance Reform Act of
24 2004 (Public Law 108–264; 118 Stat. 726) and regula-
25 tions issued pursuant to such section.”.

1 **SEC. 12. FEMA REPORTS ON FINANCIAL STATUS OF INSUR-**
2 **ANCE PROGRAM.**

3 Section 1320 of the National Flood Insurance Act of
4 1968 (42 U.S.C. 4027) is amended—

5 (1) in the section heading, by striking “RE-
6 PORT TO THE PRESIDENT” and inserting “RE-
7 PORTS”;

8 (2) in subsection (a), by striking “IN GEN-
9 ERAL” and inserting “BIENNIAL REPORT TO PRESI-
10 DENT”; and

11 (3) by adding at the end the following new sub-
12 section:

13 “(c) SEMIANNUAL REPORTS TO CONGRESS ON FI-
14 NANCIAL STATUS.—Not later than June 30 and December
15 31 of each year, the Director shall submit a report to the
16 Congress regarding the financial status of the national
17 flood insurance program under this title. Each such report
18 shall describe the financial status of the National Flood
19 Insurance Fund and current and projected levels of
20 claims, premium receipts, expenses, and borrowing under
21 the program.”.

22 **SEC. 13. EXTENSION OF PILOT PROGRAM FOR MITIGATION**
23 **OF SEVERE REPETITIVE LOSS PROPERTIES.**

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

1 (1) FUNDING.—In subsection (k)(1), by strik-
2 ing “and 2009” and inserting “2009, 2010, and
3 2011”.

4 (2) TERMINATION.—In subsection (l), by strik-
5 ing “September 30, 2009” and inserting “September
6 30, 2011”.

7 **SEC. 14. NOTICE OF AVAILABILITY OF FLOOD INSURANCE**
8 **AND ESCROW IN RESPA GOOD FAITH ESTI-**
9 **MATE.**

10 Subsection (c) of section 5 of the Real Estate Settle-
11 ment Procedures Act of 1974 (12 U.S.C. 2604(c)) is
12 amended by adding at the end the following new sentence:
13 “Each such good faith estimate shall include the following
14 conspicuous statements: (1) that flood insurance coverage
15 for residential real estate is generally available under the
16 National Flood Insurance Program whether or not the
17 real estate is located in an area having special flood haz-
18 ards and that, to obtain such coverage, a home owner or
19 purchaser should contact a property insurance agent,
20 broker, or company; and (2) that the escrowing of flood
21 insurance payments is required for many loans under sec-
22 tion 102(d) of the Flood Disaster Protection Act of 1973,
23 and may be a convenient and available option with respect
24 to other loans.”.

1 **SEC. 15. REITERATION OF FEMA RESPONSIBILITIES UNDER**
2 **2004 REFORM ACT.**

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

13 (b) MINIMUM TRAINING AND EDUCATION REQUIRE-
14 MENTS.—The Director of the Federal Emergency Man-
15 agement Agency is directed to continue to work with the
16 insurance industry, State insurance regulators, and other
17 interested parties to implement the minimum training and
18 education standards for all insurance agents who sell flood
19 insurance policies that were established by the Director
20 under the notice published September 1, 2005 (70 Fed.
21 Reg. 52117) pursuant to section 207 of the Bunning-Be-
22 reuter-Blumenauer Flood Insurance Reform Act of 2004
23 (42 U.S.C. 4011 note).

24 (c) REPORT.—Not later than the expiration of the 6-
25 month period beginning on the date of the enactment of
26 this Act, the Director of the Federal Emergency Manage-

1 ment Agency shall submit a report to the Congress de-
2 scribing the implementation of each provision of the
3 Bunning-Bereuter-Blumenauer Flood Insurance Reform
4 Act of 2004 (Public Law 108–264) and identifying each
5 regulation, order, notice, and other material issued by the
6 Director in implementing each such provision.

7 **SEC. 16. UPDATING OF FLOOD MAPS AND ELEVATION**
8 **STANDARDS.**

9 (a) FLOOD MAPPING PROGRAM.—Section 1360 of
10 the National Flood Insurance Act of 1968 (42 U.S.C.
11 4101) is amended by adding at the end the following new
12 subsection:

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

15 “(1) IN GENERAL.—The Director, in coordina-
16 tion with the Technical Mapping Advisory Council
17 established pursuant to section 576 of the National
18 Flood Insurance Reform Act of 1994 (42 U.S.C.
19 4101 note) and section 16(c) of the Flood Insurance
20 Reform and Modernization Act of 2006, shall estab-
21 lish a program under which the Director shall re-
22 view, update, and maintain national flood insurance
23 program rate maps in accordance with this sub-
24 section.

25 “(2) INCLUSIONS.—

1 “(A) COVERED AREAS.—Each map up-
2 dated under this subsection shall include a de-
3 piction of—

4 “(i) the 500-year floodplain;

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

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

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

15 “(i) any relevant information on
16 coastal inundation from—

17 “(I) an applicable inundation
18 map of the Corps of Engineers; and

19 “(II) data of the National Oce-
20 anic and Atmospheric Administration
21 relating to storm surge modeling;

22 “(ii) any relevant information of the
23 Geographical Service on stream flows, wa-
24 tershed characteristics, and topography
25 that is useful in the identification of flood

1 hazard areas, as determined by the Direc-
2 tor; and

3 “(iii) a description of any hazard that
4 might impact flooding, including, as deter-
5 mined by the Director—

6 “(I) land subsidence and coastal
7 erosion areas;

8 “(II) sediment flow areas;

9 “(III) mud flow areas;

10 “(IV) ice jam areas; and

11 “(V) areas on coasts and inland
12 that are subject to the failure of
13 structural protective works, such as
14 levees, dams, and floodwalls.

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

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

19 “(i) flood risk determinations; and

20 “(ii) use by State and local govern-
21 ments in managing development to reduce
22 the risk of flooding;

23 “(B) facilitate the Director, in conjunction
24 with State and local governments, to identify
25 and use consistent methods of data collection

1 and analysis in developing maps for commu-
2 nities with similar flood risks, as determined by
3 the Director; and

4 “(C) ensure that emerging weather fore-
5 casting technology is used, where practicable, in
6 flood map evaluations and the identification of
7 potential risk areas.

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

11 “(A) give priority to the updating and
12 maintenance of maps of coastal areas affected
13 by Hurricane Katrina or Hurricane Rita to pro-
14 vide guidance with respect to hurricane recovery
15 efforts; and

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

20 “(5) EDUCATION PROGRAM.—The Director
21 shall, after each update to a flood insurance pro-
22 gram rate map, in consultation with the chief execu-
23 tive officer of each community affected by the up-
24 date, conduct a program to educate each such com-

1 community about the update to the flood insurance pro-
2 gram rate map and the effects of the update.

3 “(6) ANNUAL REPORT.—Not later than June
4 30 of each year, the Director shall submit a report
5 to the Congress describing, for the preceding 12-
6 month period, the activities of the Director under
7 the program under this section and the reviews and
8 updates of flood insurance program rate maps con-
9 ducted under the program. Each such annual report
10 shall contain the most recent report of the Technical
11 Mapping Advisory Council pursuant to section
12 576(c)(3) of the National Flood Insurance Reform
13 Act of 1994 (42 U.S.C. 4101 note).

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

18 (b) ONE-TIME REVIEW AND UPDATING OF ALL
19 FLOOD ZONES AND ANNUAL MAP MODERNIZATION RE-
20 PORTS.—

21 (1) REQUIRED REVISION.—The Director of the
22 Federal Emergency Management Agency shall, as
23 soon as possible after the date of the enactment of
24 this Act, conduct a review of all floodplain areas and
25 flood-risk zones identified, delineated, or established

1 pursuant to such section 1360 and shall revise and
2 update all such areas and zones. The revisions and
3 updating under this paragraph shall not be subject
4 to the requirements of section 1360(k) of the Na-
5 tional Flood Insurance Act of 1968 (as added by
6 subsection (a) of this section).

7 (2) CERTIFICATION OF COMPLETION.—Upon
8 completing the review, revision, and updating re-
9 quired under paragraph (1), the Director shall sub-
10 mit to the Congress a report certifying such comple-
11 tion.

12 (3) ANNUAL REPORTS.—During the period that
13 ends upon certification under paragraph (2) of this
14 subsection by the Director, the Director shall include
15 in the annual report required under section
16 1360(k)(5) of the National Flood Insurance Act of
17 1968 (as added by subsection (a) of this section) a
18 description of the extent to which the review and up-
19 dating required under paragraph (1) of this sub-
20 section has been completed.

21 (c) REESTABLISHMENT OF TECHNICAL MAPPING
22 ADVISORY COUNCIL.—

23 (1) REESTABLISHMENT.—There is reestab-
24 lished the Technical Mapping Advisory Council, in
25 accordance with this subsection and section 576 of

1 the National Flood Insurance Reform Act of 1994
2 (42 U.S.C. 4101 note).

3 (2) MEMBERSHIP.—Paragraph (1) of section
4 576(b) of the National Flood Insurance Reform Act
5 of 1994 (42 U.S.C. 4101 note) is amended—

6 (A) by redesignating subparagraphs (E),
7 (F), (G), (H), (I), and (J) as subparagraphs
8 (F), (G), (H), (K), (M), and (N), respectively;

9 (B) by inserting after subparagraph (D)
10 the following new subparagraph:

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

13 (C) by inserting after subparagraph (H)
14 (as so redesignated by subparagraph (A) of this
15 paragraph) the following new subparagraphs:

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

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

20 (D) by inserting after subparagraph (K)
21 (as so redesignated by subparagraph (A) of this
22 paragraph) the following new subparagraph:

23 “(L) a representative of flood insurance
24 servicing companies;”.

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

9 (4) DUTIES.—Subsection (c) of section 576 of
10 the National Flood Insurance Reform Act of 1994
11 (42 U.S.C. 4101 note) is amended to read as fol-
12 lows:

13 “(c) DUTIES.—The Council shall—

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

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

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

24 (5) TERMINATION.—Subsection (k) of section
25 576 of the National Flood Insurance Reform Act of

1 1994 (42 U.S.C. 4101 note) is amended by striking
2 “under subsection (b)(1)” and inserting “pursuant
3 to subsection (b)(1) of this section and section
4 16(c)(3) of the Flood Insurance Reform and Mod-
5 ernization Act of 2006”.

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

11 “(1) INTERIM POST-DISASTER FLOOD ELE-
12 VATIONS.—

13 “(1) AUTHORITY.—Notwithstanding any other
14 provision of this section or section 1363, the Direc-
15 tor may, after any flood-related disaster, establish by
16 order interim flood elevation requirements for pur-
17 poses of the national flood insurance program for
18 any areas affected by such flood-related disaster.

19 “(2) EFFECTIVENESS.—Such interim elevation
20 requirements for such an area shall take effect im-
21 mediately upon issuance and may remain in effect
22 until the Director establishes new flood elevations
23 for such area in accordance with section 1363 or the
24 Director provides otherwise.”.

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

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

12 (A) the feasibility and effectiveness of pro-
13 viding such coverage to low-income families at
14 rates that are discounted from the rates at
15 which such coverage is otherwise provided, the
16 amounts by which such rates should be dis-
17 counted to ensure that coverage is affordable to
18 such families and to encourage purchase of cov-
19 erage by such families, and the effects of such
20 discounts on the national flood insurance pro-
21 gram; and

22 (B) the extent to which residential prop-
23 erties occupied by low-income families would be
24 affected by expanding the mandatory purchase
25 requirements of the national flood insurance

1 program to the areas included in the national
2 flood insurance program rate maps pursuant to
3 section 1360(k) of the National Flood Insur-
4 ance Act of 1968 (42 U.S.C. 4101(k)), as
5 amended by subsection (a) of this section.

6 (2) REPORT.—The Comptroller General shall
7 submit to the Congress a report setting forth the
8 conclusions of the study under this subsection not
9 later than 12 months after the date of the enact-
10 ment of this Act.

11 **SEC. 17. NOTIFICATION AND APPEAL OF MAP CHANGES;**
12 **NOTIFICATION OF ESTABLISHMENT OF**
13 **FLOOD ELEVATIONS.**

14 Section 1363 of the National Flood Insurance Act of
15 1968 (42 U.S.C. 4104) is amended by striking the section
16 designation and all that follows through the end of sub-
17 section (a) and inserting the following:

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

22 “(1) by providing the chief executive officer of
23 each community affected by the proposed elevations,
24 by certified mail, with a return receipt requested,
25 notice of the elevations, including a copy of the maps

1 for the elevations for such community and a state-
2 ment explaining the process under this section to ap-
3 peal for changes in such elevations;

4 “(2) by causing notice of such elevations to be
5 published in the Federal Register, which notice shall
6 include information sufficient to identify the ele-
7 vation determinations and the communities affected,
8 information explaining how to obtain copies of the
9 elevations, and a statement explaining the process
10 under this section to appeal for changes in the ele-
11 vations;

12 “(3) by publishing the elevations in a prominent
13 local newspaper; and

14 “(4) by providing written notification, by first
15 class mail, to each owner of real property affected by
16 the proposed elevations of—

17 “(A) the status of such property, both
18 prior to and after the effective date of the pro-
19 posed determination, with respect to flood zone
20 and flood insurance requirements under this
21 Act and the Flood Disaster Protection Act of
22 1973;

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

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

4 **SEC. 18. NATIONAL LEVEE INVENTORY.**

5 To identify levees for the national flood insurance
6 program, the Director of the Federal Emergency Manage-
7 ment Agency shall maintain and periodically publish an
8 inventory of levees in the United States, and shall consult
9 with the Secretary of the Army as necessary to maintain
10 such inventory.

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

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

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

22 (2) in plain language using easy to understand
23 terms and concepts, revise any regulations, forms,
24 notices, guidance, and publications relating to the
25 full cost of repair or replacement under the replace-

1 ment cost coverage to more clearly describe such
2 coverage to flood insurance policyholders and infor-
3 mation to be provided by such policyholders relating
4 to such coverage, and to avoid providing misleading
5 information to such policyholders;

6 (3) revise the language in standard flood insur-
7 ance policies under such program regarding rating
8 and coverage descriptions in a manner that is con-
9 sistent with language used widely in other home-
10 owners and property and casualty insurance policies,
11 including such language regarding classification of
12 buildings, basements, crawl spaces, detached ga-
13 rages, enclosures below elevated buildings, and re-
14 placement costs; and

15 (4) include in each standard flood insurance
16 policy a one-page description of the policy using
17 plain language and easy to understand terms and
18 concepts.

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

20 Notwithstanding any other provision of law, the Di-
21 rector of the Federal Emergency Management Agency
22 may employ such additional staff of such Agency as may
23 be necessary to carry out all of the responsibilities of the
24 Director pursuant to this Act and the amendments made
25 by this Act. There are authorized to be appropriated to

1 Director such sums as may be necessary for costs of em-
2 ploying such additional staff.

3 **SEC. 21. INVESTIGATION OF WRITE-YOUR-OWN INSURERS'**
4 **ADJUSTMENT OF CLAIMS RELATING TO HUR-**
5 **RICANE KATRINA.**

6 (a) INVESTIGATION.—The Inspector General of the
7 Department of Homeland Security shall carry out an in-
8 vestigation of insurers making flood insurance coverage
9 available under the Write-Your-Own program pursuant to
10 section 1345 of the National Flood Insurance Act of 1968
11 (42 U.S.C. 4081) and subpart C of part 62 of title 44,
12 Code of Federal Regulations to determine—

13 (1) whether any such insurers, in adjusting and
14 settling claims resulting from Hurricane Katrina,
15 improperly attributed damages from such hurricane
16 to flooding covered under coverage provided under
17 the national flood insurance program rather than to
18 windstorms covered by other coverage provided by
19 such insurers or by windstorm insurance pools in
20 which such insurers participated; and

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

23 (b) REPORT.—Not later than the expiration of the
24 6-month period that begins upon the date of the enact-
25 ment of this Act, the Inspector General of the Department

1 of Homeland Security shall submit to the Congress a re-
2 port setting forth the conclusions of the investigation pur-
3 suant to subsection (a).

4 **SEC. 22. ELIGIBILITY OF PROPERTY DEMOLITION AND RE-**
5 **BUILDING FOR MITIGATION ASSISTANCE**
6 **PROGRAM.**

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

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

14 Section 1345 of the National Flood Insurance Act of
15 1968 (42 U.S.C. 4081) is amended by adding at the end
16 the following new subsection:

17 “(d) SAMPLING METHODS FOR QUALITY ASSUR-
18 ANCE.—In selecting the cases and claims for operational
19 reviews and claims re-inspections regarding the national
20 flood insurance program under this title, the Director shall
21 use a statistically valid probability sample whose results
22 can be generalized to the entire population of reviews and
23 claims from which the sample is drawn and whose sam-
24 pling error can be quantified.”.

1 **SEC. 24. EXTENSION OF DEADLINE FOR FILING PROOF OF**
2 **LOSS.**

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

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

8 (2) by adding at the end the following new sub-
9 section:

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

11 “(1) IN GENERAL.—In establishing any require-
12 ments regarding notification, proof, or approval of
13 claims for damage to or loss of property which is
14 covered by flood insurance made available under this
15 title, the Director may not require an insured to no-
16 tify the Director of such damage or loss, submit a
17 claim for such damage or loss, or certify to or sub-
18 mit proof of such damage or loss, before the expira-
19 tion of the 180-day period that begins on the date
20 that such damage or loss occurred.

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

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

Passed the House of Representatives June 27, 2006.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 501

109TH CONGRESS
2^D SESSION

H. R. 4973

AN ACT

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

JUNE 28, 2006

Received; read twice and placed on the calendar