

Union Calendar No. **330**112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 5652****[Report No. 112-470]**

To provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2013.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2012

Mr. RYAN of Wisconsin from the Committee on the Budget, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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**A BILL**

To provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2013.

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.**

4       This Act may be cited as the “Sequester Replacement  
5       Reconciliation Act of 2012”.

6       **SEC. 2. TABLE OF CONTENTS.**

7       The table of contents is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—AGRICULTURE

- Sec. 101. Short title.
- Sec. 102. ARRA sunset at June 30, 2012.
- Sec. 103. Categorical eligibility limited to cash assistance.
- Sec. 104. Standard utility allowances based on the receipt of energy assistance payments.
- Sec. 105. Employment and training; workfare.
- Sec. 106. End State bonus program for the supplemental nutrition assistance program.
- Sec. 107. Funding of employment and training programs.
- Sec. 108. Turn off indexing for nutrition education and obesity prevention.
- Sec. 109. Extension of Authorization of Food and Nutrition Act of 2008.
- Sec. 110. Effective dates and application of amendments.

#### TITLE II—COMMITTEE ON ENERGY AND COMMERCE

##### Subtitle A—Repeal of Certain ACA Funding Provisions

- Sec. 201. Repealing mandatory funding to states to establish American Health Benefit Exchanges.
- Sec. 202. Repealing Prevention and Public Health Fund.
- Sec. 203. Rescinding unobligated balances for CO-OP program.

##### Subtitle B—Medicaid

- Sec. 211. Revision of provider tax indirect guarantee threshold.
- Sec. 212. Rebasing of State DSH allotments for fiscal year 2022.
- Sec. 213. Repeal of Medicaid and CHIP maintenance of effort requirements under PPACA.
- Sec. 214. Medicaid payments to territories.
- Sec. 215. Repealing bonus payments for enrollment under Medicaid and CHIP.

##### Subtitle C—Liability Reform

- Sec. 221. Findings and purpose.
- Sec. 222. Encouraging speedy resolution of claims.
- Sec. 223. Compensating patient injury.
- Sec. 224. Maximizing patient recovery.
- Sec. 225. Additional HEALTH benefits.
- Sec. 226. Punitive damages.
- Sec. 227. Authorization of payment of future damages to claimants in HEALTH care lawsuits.
- Sec. 228. Definitions.
- Sec. 229. Effect on other laws.
- Sec. 230. State flexibility and protection of States' rights.
- Sec. 231. Applicability; effective date.

#### TITLE III—FINANCIAL SERVICES

Sec. 301. Table of contents.

##### Subtitle A—Orderly Liquidation Fund

Sec. 311. Repeal of liquidation authority.

Subtitle B—Home Affordable Modification Program

- Sec. 321. Short title.
- Sec. 322. Congressional findings.
- Sec. 323. Termination of authority.
- Sec. 324. Sense of Congress.

Subtitle C—Bureau of Consumer Financial Protection

- Sec. 331. Bringing the Bureau of Consumer Financial Protection into the regular appropriations process.

Subtitle D—Flood Insurance Reform

- Sec. 341. Short title.
- Sec. 342. Extensions.
- Sec. 343. Mandatory purchase.
- Sec. 344. Reforms of coverage terms.
- Sec. 345. Reforms of premium rates.
- Sec. 346. Technical Mapping Advisory Council.
- Sec. 347. FEMA incorporation of new mapping protocols.
- Sec. 348. Treatment of levees.
- Sec. 349. Privatization initiatives.
- Sec. 350. FEMA annual report on insurance program.
- Sec. 351. Mitigation assistance.
- Sec. 352. Notification to homeowners regarding mandatory purchase requirement applicability and rate phase-ins.
- Sec. 353. Notification to members of congress of flood map revisions and updates.
- Sec. 354. Notification and appeal of map changes; notification to communities of establishment of flood elevations.
- Sec. 355. Notification to tenants of availability of contents insurance.
- Sec. 356. Notification to policy holders regarding direct management of policy by FEMA.
- Sec. 357. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
- Sec. 358. Reimbursement for costs incurred by homeowners and communities obtaining letters of map amendment or revision.
- Sec. 359. Enhanced communication with certain communities during map updating process.
- Sec. 360. Notification to residents newly included in flood hazard areas.
- Sec. 361. Treatment of swimming pool enclosures outside of hurricane season.
- Sec. 362. Information regarding multiple perils claims.
- Sec. 363. FEMA authority to reject transfer of policies.
- Sec. 364. Appeals.
- Sec. 365. Reserve fund.
- Sec. 366. CDBG eligibility for flood insurance outreach activities and community building code administration grants.
- Sec. 367. Technical corrections.
- Sec. 368. Requiring competition for national flood insurance program policies.
- Sec. 369. Studies of voluntary community-based flood insurance options.
- Sec. 370. Report on inclusion of building codes in floodplain management criteria.
- Sec. 371. Study on graduated risk.
- Sec. 372. Report on flood-in-progress determination.
- Sec. 373. Study on repaying flood insurance debt.

- Sec. 374. No cause of action.  
 Sec. 375. Authority for the corps of engineers to provide specialized or technical services.

Subtitle E—Repeal of the Office of Financial Research

- Sec. 381. Repeal of the Office of Financial Research.

TITLE IV—COMMITTEE ON THE JUDICIARY

- Sec. 401. Short title.  
 Sec. 402. Encouraging speedy resolution of claims.  
 Sec. 403. Compensating patient injury.  
 Sec. 404. Maximizing patient recovery.  
 Sec. 405. Punitive damages.  
 Sec. 406. Authorization of payment of future damages to claimants in health care lawsuits.  
 Sec. 407. Definitions.  
 Sec. 408. Effect on other laws.  
 Sec. 409. State flexibility and protection of States' rights.  
 Sec. 410. Applicability; effective date.

TITLE V—COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

- Sec. 501. Retirement contributions.  
 Sec. 502. Annuity supplement.  
 Sec. 503. Contributions to Thrift Savings Fund of payments for accrued or accumulated leave.

TITLE VI—COMMITTEE ON WAYS AND MEANS

Subtitle A—Recapture of Overpayments Resulting From Certain Federally-subsidized Health Insurance

- Sec. 601. Recapture of overpayments resulting from certain federally-subsidized health insurance.

Subtitle B—Social Security Number Required to Claim the Refundable Portion of the Child Tax Credit

- Sec. 611. Social security number required to claim the refundable portion of the child tax credit.

Subtitle C—Human Resources Provisions

- Sec. 621. Repeal of the program of block grants to States for social services.

1 **TITLE I—AGRICULTURE**

2 **SEC. 101. SHORT TITLE.**

- 3 This title may be cited as the “Agricultural Reconcili-  
 4 ation Act of 2012”.

1 **SEC. 102. ARRA SUNSET AT JUNE 30, 2012.**

2 Section 101(a)(2) of division A of the American Re-  
3 covery and Reinvestment Act of 2009 (Public Law 111-  
4 5; 123 Stat. 120) is amended by striking “October 31,  
5 2013” and inserting “June 30, 2012”.

6 **SEC. 103. CATEGORICAL ELIGIBILITY LIMITED TO CASH AS-**  
7 **SISTANCE.**

8 Section 5 of the Food and Nutrition Act of 2008 (7  
9 U.S.C. 2014) is amended—

10 (1) in the 2d sentence of subsection (a) by  
11 striking “households in which each member receives  
12 benefits” and inserting “households in which each  
13 member receives cash assistance”, and

14 (2) in subsection (j) by striking “or who re-  
15 ceives benefits under a State program” and inserting  
16 “or who receives cash assistance under a State pro-  
17 gram”.

18 **SEC. 104. STANDARD UTILITY ALLOWANCES BASED ON THE**  
19 **RECEIPT OF ENERGY ASSISTANCE PAY-**  
20 **MENTS.**

21 (a) STANDARD UTILITY ALLOWANCE.—Section 5 of  
22 the Food and Nutrition Act of 2008 (7 U.S.C. 2014) is  
23 amended—

24 (1) in subsection (e)(6)(C) by striking clause  
25 (iv), and

1 (2) in subsection (k) by striking paragraph (4)  
2 and inserting the following:

3 “(4) THIRD PARTY ENERGY ASSISTANCE PAY-  
4 MENTS.—For purposes of subsection (d)(1), a pay-  
5 ment made under a State law (other than a law re-  
6 ferred to in paragraph (2)(G)) to provide energy as-  
7 sistance to a household shall be considered money  
8 payable directly to the household.”.

9 (b) CONFORMING AMENDMENTS.—Section  
10 2605(f)(2) of the Low-Income Home Energy Assistance  
11 Act of 1981 (42 U.S.C. 8624(f)(2)) is amended—

12 (1) by striking “and for purposes of deter-  
13 mining any excess shelter expense deduction under  
14 section 5(e) of the Food and Nutrition Act of 2008  
15 (7 U.S.C. 2014(e))”, and

16 (2) in subparagraph (A) by inserting before the  
17 semicolon the following: “, except that such pay-  
18 ments or allowances shall not be deemed to be ex-  
19 pended for purposes of determining any excess shel-  
20 ter expense deduction under section 5(e)(6) of the  
21 Food and Nutrition Act of 2008 (7 U.S.C.  
22 2014(e)(6))”.

23 **SEC. 105. EMPLOYMENT AND TRAINING; WORKFARE.**

24 (a) ADMINISTRATIVE COST-SHARING FOR EMPLOY-  
25 MENT AND TRAINING PROGRAMS.—

1           (1) IN GENERAL.—Section 16 of the Food and  
2 Nutrition Act of 2008 (7 U.S.C. 2025) is amend-  
3 ed—

4           (A) in subsection (a) by inserting “(other  
5 than a program carried out under section  
6 6(d)(4) or section 20)” after “supplemental nu-  
7 trition assistance program” the 1st place it ap-  
8 pears, and

9           (B) in subsection (h)—

10           (i) by striking paragraphs (2) and (3),

11           and

12           (ii) by redesignating paragraphs (4)

13           and (5) as paragraphs (2) and (3), respec-  
14           tively.

15           (2) CONFORMING AMENDMENTS.—

16           (A) Section 17(b)(1)(B)(iv)(III)(hh) of the  
17 Food and Nutrition Act of 2008 (7 U.S.C.  
18 2026(b)(1)(B)(iv)(III)(hh)) is amended by  
19 striking “(g), (h)(2), or (h)(3)” and inserting  
20 “or (g)”.

21           (B) Section 22(d)(1)(B)(ii) of the Food  
22 and Nutrition Act of 2008 (7 U.S.C.  
23 2031(d)(1)(B)(ii)) is amended is amended by  
24 striking “, (g), (h)(2), and (h)(3)” and insert-  
25 ing “and (g)”.

1 (b) ADMINISTRATIVE COST-SHARING AND REIM-  
2 BURSEMENTS FOR WORKFARE.—Section 20 of the Food  
3 and Nutrition Act of 2008 (7 U.S.C. 2029) is amended  
4 by striking subsection (g).

5 **SEC. 106. END STATE BONUS PROGRAM FOR THE SUPPLE-**  
6 **MENTAL NUTRITION ASSISTANCE PROGRAM.**

7 Section 16 of the Food and Nutrition Act of 2008  
8 (7 U.S.C. 2025) is amended by striking subsection (d).

9 **SEC. 107. FUNDING OF EMPLOYMENT AND TRAINING PRO-**  
10 **GRAMS.**

11 For purposes of fiscal year 2013, the reference to  
12 \$90,000,000 in section 16(h)(1)(A) of the Food and Nu-  
13 trition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) shall be  
14 deemed to be a reference to \$79,000,000.

15 **SEC. 108. TURN OFF INDEXING FOR NUTRITION EDU-**  
16 **CATION AND OBESITY PREVENTION.**

17 Section 28(d) of the Food and Nutrition Act of 2008  
18 (7 U.S.C. 2037(d)) is amended by striking “years—” and  
19 all that follows through the period at the end, and insert-  
20 ing “years, \$375,000,000.”.

21 **SEC. 109. EXTENSION OF AUTHORIZATION OF FOOD AND**  
22 **NUTRITION ACT OF 2008.**

23 Section 18(a)(1) of the Food and Nutrition Act of  
24 2008 (7 U.S.C. 2027(a)(1)) is amended by striking  
25 “2012” and inserting “2013”.



1 **SEC. 110. EFFECTIVE DATES AND APPLICATION OF AMEND-**  
2 **MENTS.**

3 (a) **GENERAL EFFECTIVE DATE.**—Except as pro-  
4 vided in subsection (b), this title and the amendments  
5 made by this title shall take effect on October 1, 2012,  
6 and shall apply only with respect to certification periods  
7 that begin on or after such date.

8 (b) **SPECIAL EFFECTIVE DATE.**—Section 107 and  
9 the amendments made by sections 102, 103, 104, and 109  
10 shall take effect on the date of the enactment of this Act  
11 and shall apply only with respect to certification periods  
12 that begin on or after such date.

13 **TITLE II—COMMITTEE ON**  
14 **ENERGY AND COMMERCE**  
15 **Subtitle A—Repeal of Certain ACA**  
16 **Funding Provisions**

17 **SEC. 201. REPEALING MANDATORY FUNDING TO STATES TO**  
18 **ESTABLISH AMERICAN HEALTH BENEFIT EX-**  
19 **CHANGES.**

20 (a) **IN GENERAL.**—Section 1311(a) of the Patient  
21 Protection and Affordable Care Act (42 U.S.C. 18031(a))  
22 is repealed.

23 (b) **RESCISSION OF UNOBLIGATED FUNDS.**—Of the  
24 funds made available under such section 1311(a), the un-  
25 obligated balance is rescinded.

1 **SEC. 202. REPEALING PREVENTION AND PUBLIC HEALTH**  
2 **FUND.**

3 (a) IN GENERAL.—Section 4002 of the Patient Pro-  
4 tection and Affordable Care Act (42 U.S.C. 300u–11) is  
5 repealed.

6 (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the  
7 funds made available by such section 4002, the unobli-  
8 gated balance is rescinded.

9 **SEC. 203. RESCINDING UNOBLIGATED BALANCES FOR CO-**  
10 **OP PROGRAM.**

11 Of the funds made available under section 1322(g)  
12 of the Patient Protection and Affordable Care Act (42  
13 U.S.C. 18042(g)), the unobligated balance is rescinded.

14 **Subtitle B—Medicaid**

15 **SEC. 211. REVISION OF PROVIDER TAX INDIRECT GUAR-**  
16 **ANTEE THRESHOLD.**

17 Section 1903(w)(4)(C)(ii) of the Social Security Act  
18 (42 U.S.C. 1396b(w)(4)(C)(ii)) is amended by inserting  
19 “and for portions of fiscal years beginning on or after Oc-  
20 tober 1, 2012,” after “October 1, 2011,”.

21 **SEC. 212. REBASING OF STATE DSH ALLOTMENTS FOR FIS-**  
22 **CAL YEAR 2022.**

23 Section 1923(f) of the Social Security Act (42 U.S.C.  
24 1396r-4(f)) is amended—

25 (1) by redesignating paragraph (9) as para-  
26 graph (10);

1           (2) in paragraph (3)(A) by striking “para-  
2         graphs (6), (7), and (8)” and inserting “paragraphs  
3         (6), (7), (8), and (9)”;

4           (3) by inserting after paragraph (8) the fol-  
5         lowing new paragraph:

6           “(9) REBASING OF STATE DSH ALLOTMENTS  
7         FOR FISCAL YEAR 2022.—With respect to fiscal  
8         2022, for purposes of applying paragraph (3)(A) to  
9         determine the DSH allotment for a State, the  
10         amount of the DSH allotment for the State under  
11         paragraph (3) for fiscal year 2021 shall be treated  
12         as if it were such amount as reduced under para-  
13         graph (7).”.

14 **SEC. 213. REPEAL OF MEDICAID AND CHIP MAINTENANCE**  
15 **OF EFFORT REQUIREMENTS UNDER PPACA.**

16         (a) REPEAL OF PPACA MEDICAID MOE.—Section  
17 1902 of the Social Security Act (42 U.S.C. 1396a) is  
18 amended by striking subsection (gg).

19         (b) REPEAL OF PPACA CHIP MOE.—Section  
20 2105(d)(3) of the Social Security Act (42 U.S.C.  
21 1397ee(d)(3)) is amended—

- 22           (1) by striking subparagraph (A);
- 23           (2) by redesignating subparagraphs (B) and  
24         (C) as subparagraphs (A) and (B), respectively; and

1           (3) in the paragraph heading, by striking  
2           “CONTINUATION OF ELIGIBILITY STANDARDS FOR  
3           CHILDREN UNTIL OCTOBER 1, 2019” and inserting  
4           “CONTINUITY OF COVERAGE”.

5           (c) CONFORMING AMENDMENTS.—

6           (1) Section 1902(a) of the Social Security Act  
7           (42 U.S.C. 1396a(a)) is amended by striking para-  
8           graph (74).

9           (2) Effective January 1, 2014, paragraph (14)  
10          of section 1902(e) (as added by section 2002(a) of  
11          Public Law 111–148) is amended by striking the  
12          third sentence of subparagraph (A).

13          (d) EFFECTIVE DATE.—Except as provided in sub-  
14          section (c)(2), the amendments made by this section shall  
15          take effect on the date of the enactment of this section.

16       **SEC. 214. MEDICAID PAYMENTS TO TERRITORIES.**

17          (a) LIMIT ON PAYMENTS.—Section 1108(g) of the  
18          Social Security Act (42 U.S.C. 1308(g)) is amended—

19               (1) in paragraph (2)—

20                       (A) by striking “paragraphs (3) and (5)”;  
21                       and

21                       and

22                       (B) by inserting “paragraph (3)” after  
23                       “and subject to”;

1           (2) in paragraph (4), by striking “(3), and”  
2           and all that follows through “of this subsection” and  
3           inserting “and (3) of this subsection”; and

4           (3) by striking paragraph (5).

5           (b) FMAP.—The first sentence of section 1905(b) of  
6 the Social Security Act (42 U.S.C. 1396d(b)) is amended  
7 by striking “shall be 55 percent” and inserting “shall be  
8 50 percent”.

9   **SEC. 215. REPEALING BONUS PAYMENTS FOR ENROLL-**  
10                                   **MENT UNDER MEDICAID AND CHIP.**

11           (a) IN GENERAL.—Paragraphs (3) and (4) of section  
12 2105(a) of the Social Security Act (42 U.S.C. 1397ee(a))  
13 are repealed.

14           (b) RESCISSION OF UNOBLIGATED FUNDS.—Of the  
15 funds made available by section 2105(a)(3) of the Social  
16 Security Act, the unobligated balance is rescinded.

17           (c) CONFORMING CHANGES.—

18                   (1) AVAILABILITY OF EXCESS FUNDS FOR PER-  
19           FORMANCE BONUSES.—Section 2104(n)(2) of the  
20           Social Security Act (42 U.S.C. 1397dd(n)(2)) is  
21           amended by striking subparagraph (D).

22                   (2) OUTREACH OR COVERAGE BENCHMARKS.—  
23           Section 2111(b)(3) of the Social Security Act (42  
24           U.S.C. 1397kk(b)(3)) is amended—

25                           (A) in subparagraph (A)—

- 1 (i) in clause (i), by inserting “or”  
2 after the semicolon at the end; and  
3 (ii) by striking clause (ii); and  
4 (B) by striking subparagraph (C).

## 5 **Subtitle C—Liability Reform**

### 6 **SEC. 221. FINDINGS AND PURPOSE.**

#### 7 (a) FINDINGS.—

8 (1) EFFECT ON HEALTH CARE ACCESS AND  
9 COSTS.—Congress finds that our current civil justice  
10 system is adversely affecting patient access to health  
11 care services, better patient care, and cost-efficient  
12 health care, in that the health care liability system  
13 is a costly and ineffective mechanism for resolving  
14 claims of health care liability and compensating in-  
15 jured patients, and is a deterrent to the sharing of  
16 information among health care professionals which  
17 impedes efforts to improve patient safety and quality  
18 of care.

19 (2) EFFECT ON INTERSTATE COMMERCE.—  
20 Congress finds that the health care and insurance  
21 industries are industries affecting interstate com-  
22 merce and the health care liability litigation systems  
23 existing throughout the United States are activities  
24 that affect interstate commerce by contributing to  
25 the high costs of health care and premiums for

1 health care liability insurance purchased by health  
2 care system providers.

3 (3) EFFECT ON FEDERAL SPENDING.—Con-  
4 gress finds that the health care liability litigation  
5 systems existing throughout the United States have  
6 a significant effect on the amount, distribution, and  
7 use of Federal funds because of—

8 (A) the large number of individuals who  
9 receive health care benefits under programs op-  
10 erated or financed by the Federal Government;

11 (B) the large number of individuals who  
12 benefit because of the exclusion from Federal  
13 taxes of the amounts spent to provide them  
14 with health insurance benefits; and

15 (C) the large number of health care pro-  
16 viders who provide items or services for which  
17 the Federal Government makes payments.

18 (b) PURPOSE.—It is the purpose of this subtitle to  
19 implement reasonable, comprehensive, and effective health  
20 care liability reforms designed to—

21 (1) improve the availability of health care serv-  
22 ices in cases in which health care liability actions  
23 have been shown to be a factor in the decreased  
24 availability of services;

1           (2) reduce the incidence of “defensive medi-  
2           cine” and lower the cost of health care liability in-  
3           surance, all of which contribute to the escalation of  
4           health care costs;

5           (3) ensure that persons with meritorious health  
6           care injury claims receive fair and adequate com-  
7           pensation, including reasonable noneconomic dam-  
8           ages;

9           (4) improve the fairness and cost-effectiveness  
10          of our current health care liability system to resolve  
11          disputes over, and provide compensation for, health  
12          care liability by reducing uncertainty in the amount  
13          of compensation provided to injured individuals; and

14          (5) provide an increased sharing of information  
15          in the health care system which will reduce unin-  
16          tended injury and improve patient care.

17 **SEC. 222. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

18          The time for the commencement of a health care law-  
19          suit shall be 3 years after the date of manifestation of  
20          injury or 1 year after the claimant discovers, or through  
21          the use of reasonable diligence should have discovered, the  
22          injury, whichever occurs first. In no event shall the time  
23          for commencement of a health care lawsuit exceed 3 years  
24          after the date of manifestation of injury unless tolled for  
25          any of the following—



- 1 (1) upon proof of fraud;
- 2 (2) intentional concealment; or
- 3 (3) the presence of a foreign body, which has no
- 4 therapeutic or diagnostic purpose or effect, in the
- 5 person of the injured person.

6 Actions by a minor shall be commenced within 3 years  
7 from the date of the alleged manifestation of injury except  
8 that actions by a minor under the full age of 6 years shall  
9 be commenced within 3 years of manifestation of injury  
10 or prior to the minor's 8th birthday, whichever provides  
11 a longer period. Such time limitation shall be tolled for  
12 minors for any period during which a parent or guardian  
13 and a health care provider or health care organization  
14 have committed fraud or collusion in the failure to bring  
15 an action on behalf of the injured minor.

16 **SEC. 223. COMPENSATING PATIENT INJURY.**

17 (a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL  
18 ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any  
19 health care lawsuit, nothing in this subtitle shall limit a  
20 claimant's recovery of the full amount of the available eco-  
21 nomic damages, notwithstanding the limitation in sub-  
22 section (b).

23 (b) ADDITIONAL NONECONOMIC DAMAGES.—In any  
24 health care lawsuit, the amount of noneconomic damages,  
25 if available, may be as much as \$250,000, regardless of

1 the number of parties against whom the action is brought  
2 or the number of separate claims or actions brought with  
3 respect to the same injury.

4 (c) NO DISCOUNT OF AWARD FOR NONECONOMIC  
5 DAMAGES.—For purposes of applying the limitation in  
6 subsection (b), future noneconomic damages shall not be  
7 discounted to present value. The jury shall not be in-  
8 formed about the maximum award for noneconomic dam-  
9 ages. An award for noneconomic damages in excess of  
10 \$250,000 shall be reduced either before the entry of judg-  
11 ment, or by amendment of the judgment after entry of  
12 judgment, and such reduction shall be made before ac-  
13 counting for any other reduction in damages required by  
14 law. If separate awards are rendered for past and future  
15 noneconomic damages and the combined awards exceed  
16 \$250,000, the future noneconomic damages shall be re-  
17 duced first.

18 (d) FAIR SHARE RULE.—In any health care lawsuit,  
19 each party shall be liable for that party's several share  
20 of any damages only and not for the share of any other  
21 person. Each party shall be liable only for the amount of  
22 damages allocated to such party in direct proportion to  
23 such party's percentage of responsibility. Whenever a  
24 judgment of liability is rendered as to any party, a sepa-  
25 rate judgment shall be rendered against each such party

1 for the amount allocated to such party. For purposes of  
2 this section, the trier of fact shall determine the propor-  
3 tion of responsibility of each party for the claimant's  
4 harm.

5 **SEC. 224. MAXIMIZING PATIENT RECOVERY.**

6 (a) COURT SUPERVISION OF SHARE OF DAMAGES  
7 ACTUALLY PAID TO CLAIMANTS.—In any health care law-  
8 suit, the court shall supervise the arrangements for pay-  
9 ment of damages to protect against conflicts of interest  
10 that may have the effect of reducing the amount of dam-  
11 ages awarded that are actually paid to claimants. In par-  
12 ticular, in any health care lawsuit in which the attorney  
13 for a party claims a financial stake in the outcome by vir-  
14 tue of a contingent fee, the court shall have the power  
15 to restrict the payment of a claimant's damage recovery  
16 to such attorney, and to redirect such damages to the  
17 claimant based upon the interests of justice and principles  
18 of equity. In no event shall the total of all contingent fees  
19 for representing all claimants in a health care lawsuit ex-  
20 ceed the following limits:

21 (1) Forty percent of the first \$50,000 recovered  
22 by the claimant(s).

23 (2) Thirty-three and one-third percent of the  
24 next \$50,000 recovered by the claimant(s).

1           (3) Twenty-five percent of the next \$500,000  
2           recovered by the claimant(s).

3           (4) Fifteen percent of any amount by which the  
4           recovery by the claimant(s) is in excess of \$600,000.

5           (b) **APPLICABILITY.**—The limitations in this section  
6 shall apply whether the recovery is by judgment, settle-  
7 ment, mediation, arbitration, or any other form of alter-  
8 native dispute resolution. In a health care lawsuit involv-  
9 ing a minor or incompetent person, a court retains the  
10 authority to authorize or approve a fee that is less than  
11 the maximum permitted under this section. The require-  
12 ment for court supervision in the first two sentences of  
13 subsection (a) applies only in civil actions.

14 **SEC. 225. ADDITIONAL HEALTH BENEFITS.**

15           In any health care lawsuit involving injury or wrong-  
16 ful death, any party may introduce evidence of collateral  
17 source benefits. If a party elects to introduce such evi-  
18 dence, any opposing party may introduce evidence of any  
19 amount paid or contributed or reasonably likely to be paid  
20 or contributed in the future by or on behalf of the oppos-  
21 ing party to secure the right to such collateral source bene-  
22 fits. No provider of collateral source benefits shall recover  
23 any amount against the claimant or receive any lien or  
24 credit against the claimant's recovery or be equitably or  
25 legally subrogated to the right of the claimant in a health

1 care lawsuit involving injury or wrongful death. This sec-  
2 tion shall apply to any health care lawsuit that is settled  
3 as well as a health care lawsuit that is resolved by a fact  
4 finder. This section shall not apply to section 1862(b) (42  
5 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C.  
6 1396a(a)(25)) of the Social Security Act.

7 **SEC. 226. PUNITIVE DAMAGES.**

8 (a) IN GENERAL.—Punitive damages may, if other-  
9 wise permitted by applicable State or Federal law, be  
10 awarded against any person in a health care lawsuit only  
11 if it is proven by clear and convincing evidence that such  
12 person acted with malicious intent to injure the claimant,  
13 or that such person deliberately failed to avoid unneces-  
14 sary injury that such person knew the claimant was sub-  
15 stantially certain to suffer. In any health care lawsuit  
16 where no judgment for compensatory damages is rendered  
17 against such person, no punitive damages may be awarded  
18 with respect to the claim in such lawsuit. No demand for  
19 punitive damages shall be included in a health care lawsuit  
20 as initially filed. A court may allow a claimant to file an  
21 amended pleading for punitive damages only upon a mo-  
22 tion by the claimant and after a finding by the court, upon  
23 review of supporting and opposing affidavits or after a  
24 hearing, after weighing the evidence, that the claimant has  
25 established by a substantial probability that the claimant

1 will prevail on the claim for punitive damages. At the re-  
2 quest of any party in a health care lawsuit, the trier of  
3 fact shall consider in a separate proceeding—

4 (1) whether punitive damages are to be award-  
5 ed and the amount of such award; and

6 (2) the amount of punitive damages following a  
7 determination of punitive liability.

8 If a separate proceeding is requested, evidence relevant  
9 only to the claim for punitive damages, as determined by  
10 applicable State law, shall be inadmissible in any pro-  
11 ceeding to determine whether compensatory damages are  
12 to be awarded.

13 (b) DETERMINING AMOUNT OF PUNITIVE DAM-  
14 AGES.—

15 (1) FACTORS CONSIDERED.—In determining  
16 the amount of punitive damages, if awarded, in a  
17 health care lawsuit, the trier of fact shall consider  
18 only the following—

19 (A) the severity of the harm caused by the  
20 conduct of such party;

21 (B) the duration of the conduct or any  
22 concealment of it by such party;

23 (C) the profitability of the conduct to such  
24 party;

1 (D) the number of products sold or med-  
2 ical procedures rendered for compensation, as  
3 the case may be, by such party, of the kind  
4 causing the harm complained of by the claim-  
5 ant;

6 (E) any criminal penalties imposed on such  
7 party, as a result of the conduct complained of  
8 by the claimant; and

9 (F) the amount of any civil fines assessed  
10 against such party as a result of the conduct  
11 complained of by the claimant.

12 (2) MAXIMUM AWARD.—The amount of punitive  
13 damages, if awarded, in a health care lawsuit may  
14 be as much as \$250,000 or as much as two times  
15 the amount of economic damages awarded, which-  
16 ever is greater. The jury shall not be informed of  
17 this limitation.

18 (c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT  
19 COMPLY WITH FDA STANDARDS.—

20 (1) IN GENERAL.—

21 (A) No punitive damages may be awarded  
22 against the manufacturer or distributor of a  
23 medical product, or a supplier of any compo-  
24 nent or raw material of such medical product,

1 based on a claim that such product caused the  
2 claimant's harm where—

3 (i)(I) such medical product was sub-  
4 ject to premarket approval, clearance, or li-  
5 censure by the Food and Drug Administra-  
6 tion with respect to the safety of the for-  
7 mulation or performance of the aspect of  
8 such medical product which caused the  
9 claimant's harm or the adequacy of the  
10 packaging or labeling of such medical  
11 product; and

12 (II) such medical product was so ap-  
13 proved, cleared, or licensed; or

14 (ii) such medical product is generally  
15 recognized among qualified experts as safe  
16 and effective pursuant to conditions estab-  
17 lished by the Food and Drug Administra-  
18 tion and applicable Food and Drug Admin-  
19 istration regulations, including without  
20 limitation those related to packaging and  
21 labeling, unless the Food and Drug Admin-  
22 istration has determined that such medical  
23 product was not manufactured or distrib-  
24 uted in substantial compliance with appli-



1 cable Food and Drug Administration stat-  
2 utes and regulations.

3 (B) RULE OF CONSTRUCTION.—Subpara-  
4 graph (A) may not be construed as establishing  
5 the obligation of the Food and Drug Adminis-  
6 tration to demonstrate affirmatively that a  
7 manufacturer, distributor, or supplier referred  
8 to in such subparagraph meets any of the con-  
9 ditions described in such subparagraph.

10 (2) LIABILITY OF HEALTH CARE PROVIDERS.—  
11 A health care provider who prescribes, or who dis-  
12 penses pursuant to a prescription, a medical product  
13 approved, licensed, or cleared by the Food and Drug  
14 Administration shall not be named as a party to a  
15 product liability lawsuit involving such product and  
16 shall not be liable to a claimant in a class action  
17 lawsuit against the manufacturer, distributor, or  
18 seller of such product. Nothing in this paragraph  
19 prevents a court from consolidating cases involving  
20 health care providers and cases involving products li-  
21 ability claims against the manufacturer, distributor,  
22 or product seller of such medical product.

23 (3) PACKAGING.—In a health care lawsuit for  
24 harm which is alleged to relate to the adequacy of  
25 the packaging or labeling of a drug which is required

1 to have tamper-resistant packaging under regula-  
2 tions of the Secretary of Health and Human Serv-  
3 ices (including labeling regulations related to such  
4 packaging), the manufacturer or product seller of  
5 the drug shall not be held liable for punitive dam-  
6 ages unless such packaging or labeling is found by  
7 the trier of fact by clear and convincing evidence to  
8 be substantially out of compliance with such regula-  
9 tions.

10 (4) EXCEPTION.—Paragraph (1) shall not  
11 apply in any health care lawsuit in which—

12 (A) a person, before or after premarket ap-  
13 proval, clearance, or licensure of such medical  
14 product, knowingly misrepresented to or with-  
15 held from the Food and Drug Administration  
16 information that is required to be submitted  
17 under the Federal Food, Drug, and Cosmetic  
18 Act (21 U.S.C. 301 et seq.) or section 351 of  
19 the Public Health Service Act (42 U.S.C. 262)  
20 that is material and is causally related to the  
21 harm which the claimant allegedly suffered;

22 (B) a person made an illegal payment to  
23 an official of the Food and Drug Administra-  
24 tion for the purpose of either securing or main-

1           taining approval, clearance, or licensure of such  
2           medical product; or

3           (C) the defendant caused the medical prod-  
4           uct which caused the claimant's harm to be  
5           misbranded or adulterated (as such terms are  
6           used in chapter V of the Federal Food, Drug,  
7           and Cosmetic Act (21 U.S.C. 351 et seq.)).

8 **SEC. 227. AUTHORIZATION OF PAYMENT OF FUTURE DAM-**  
9                   **AGES TO CLAIMANTS IN HEALTH CARE LAW-**  
10                   **SUITS.**

11           (a) **IN GENERAL.**—In any health care lawsuit, if an  
12           award of future damages, without reduction to present  
13           value, equaling or exceeding \$50,000 is made against a  
14           party with sufficient insurance or other assets to fund a  
15           periodic payment of such a judgment, the court shall, at  
16           the request of any party, enter a judgment ordering that  
17           the future damages be paid by periodic payments, in ac-  
18           cordance with the Uniform Periodic Payment of Judg-  
19           ments Act promulgated by the National Conference of  
20           Commissioners on Uniform State Laws.

21           (b) **APPLICABILITY.**—This section applies to all ac-  
22           tions which have not been first set for trial or retrial be-  
23           fore the effective date of this subtitle.

24 **SEC. 228. DEFINITIONS.**

25           In this subtitle:

1           (1) ALTERNATIVE DISPUTE RESOLUTION SYS-  
2           TEM; ADR.—The term “alternative dispute resolution  
3           system” or “ADR” means a system that provides  
4           for the resolution of health care lawsuits in a man-  
5           ner other than through a civil action brought in a  
6           State or Federal court.

7           (2) CLAIMANT.—The term “claimant” means  
8           any person who brings a health care lawsuit, includ-  
9           ing a person who asserts or claims a right to legal  
10          or equitable contribution, indemnity, or subrogation,  
11          arising out of a health care liability claim or action,  
12          and any person on whose behalf such a claim is as-  
13          serted or such an action is brought, whether de-  
14          ceased, incompetent, or a minor.

15          (3) COLLATERAL SOURCE BENEFITS.—The  
16          term “collateral source benefits” means any amount  
17          paid or reasonably likely to be paid in the future to  
18          or on behalf of the claimant, or any service, product,  
19          or other benefit provided or reasonably likely to be  
20          provided in the future to or on behalf of the claim-  
21          ant, as a result of the injury or wrongful death, pur-  
22          suant to—

23                   (A) any State or Federal health, sickness,  
24                   income-disability, accident, or workers’ com-  
25                   pensation law;

1           (B) any health, sickness, income-disability,  
2           or accident insurance that provides health bene-  
3           fits or income-disability coverage;

4           (C) any contract or agreement of any  
5           group, organization, partnership, or corporation  
6           to provide, pay for, or reimburse the cost of  
7           medical, hospital, dental, or income-disability  
8           benefits; and

9           (D) any other publicly or privately funded  
10          program.

11          (4) COMPENSATORY DAMAGES.—The term  
12          “compensatory damages” means objectively  
13          verifiable monetary losses incurred as a result of the  
14          provision of, use of, or payment for (or failure to  
15          provide, use, or pay for) health care services or med-  
16          ical products, such as past and future medical ex-  
17          penses, loss of past and future earnings, cost of ob-  
18          taining domestic services, loss of employment, and  
19          loss of business or employment opportunities, dam-  
20          ages for physical and emotional pain, suffering, in-  
21          convenience, physical impairment, mental anguish,  
22          disfigurement, loss of enjoyment of life, loss of soci-  
23          ety and companionship, loss of consortium (other  
24          than loss of domestic service), hedonic damages, in-  
25          jury to reputation, and all other nonpecuniary losses

1 of any kind or nature. The term “compensatory  
2 damages” includes economic damages and non-  
3 economic damages, as such terms are defined in this  
4 section.

5 (5) CONTINGENT FEE.—The term “contingent  
6 fee” includes all compensation to any person or per-  
7 sons which is payable only if a recovery is effected  
8 on behalf of one or more claimants.

9 (6) ECONOMIC DAMAGES.—The term “economic  
10 damages” means objectively verifiable monetary  
11 losses incurred as a result of the provision of, use  
12 of, or payment for (or failure to provide, use, or pay  
13 for) health care services or medical products, such as  
14 past and future medical expenses, loss of past and  
15 future earnings, cost of obtaining domestic services,  
16 loss of employment, and loss of business or employ-  
17 ment opportunities.

18 (7) HEALTH CARE LAWSUIT.—The term  
19 “health care lawsuit” means any health care liability  
20 claim concerning the provision of health care goods  
21 or services or any medical product affecting inter-  
22 state commerce, or any health care liability action  
23 concerning the provision of health care goods or  
24 services or any medical product affecting interstate  
25 commerce, brought in a State or Federal court or

1       pursuant to an alternative dispute resolution system,  
2       against a health care provider, a health care organi-  
3       zation, or the manufacturer, distributor, supplier,  
4       marketer, promoter, or seller of a medical product,  
5       regardless of the theory of liability on which the  
6       claim is based, or the number of claimants, plain-  
7       tiffs, defendants, or other parties, or the number of  
8       claims or causes of action, in which the claimant al-  
9       leges a health care liability claim. Such term does  
10      not include a claim or action which is based on  
11      criminal liability; which seeks civil fines or penalties  
12      paid to Federal, State, or local government; or which  
13      is grounded in antitrust.

14           (8) HEALTH CARE LIABILITY ACTION.—The  
15      term “health care liability action” means a civil ac-  
16      tion brought in a State or Federal court or pursuant  
17      to an alternative dispute resolution system, against  
18      a health care provider, a health care organization, or  
19      the manufacturer, distributor, supplier, marketer,  
20      promoter, or seller of a medical product, regardless  
21      of the theory of liability on which the claim is based,  
22      or the number of plaintiffs, defendants, or other par-  
23      ties, or the number of causes of action, in which the  
24      claimant alleges a health care liability claim.

1           (9) HEALTH CARE LIABILITY CLAIM.—The  
2 term “health care liability claim” means a demand  
3 by any person, whether or not pursuant to ADR,  
4 against a health care provider, health care organiza-  
5 tion, or the manufacturer, distributor, supplier, mar-  
6 keter, promoter, or seller of a medical product, in-  
7 cluding, but not limited to, third-party claims, cross-  
8 claims, counter-claims, or contribution claims, which  
9 are based upon the provision of, use of, or payment  
10 for (or the failure to provide, use, or pay for) health  
11 care services or medical products, regardless of the  
12 theory of liability on which the claim is based, or the  
13 number of plaintiffs, defendants, or other parties, or  
14 the number of causes of action.

15           (10) HEALTH CARE ORGANIZATION.—The term  
16 “health care organization” means any person or en-  
17 tity which is obligated to provide or pay for health  
18 benefits under any health plan, including any person  
19 or entity acting under a contract or arrangement  
20 with a health care organization to provide or admin-  
21 ister any health benefit.

22           (11) HEALTH CARE PROVIDER.—The term  
23 “health care provider” means any person or entity  
24 required by State or Federal laws or regulations to  
25 be licensed, registered, or certified to provide health



1 care services, and being either so licensed, reg-  
2 istered, or certified, or exempted from such require-  
3 ment by other statute or regulation.

4 (12) HEALTH CARE GOODS OR SERVICES.—The  
5 term “health care goods or services” means any  
6 goods or services provided by a health care organiza-  
7 tion, provider, or by any individual working under  
8 the supervision of a health care provider, that relates  
9 to the diagnosis, prevention, or treatment of any  
10 human disease or impairment, or the assessment or  
11 care of the health of human beings.

12 (13) MALICIOUS INTENT TO INJURE.—The  
13 term “malicious intent to injure” means inten-  
14 tionally causing or attempting to cause physical in-  
15 jury other than providing health care goods or serv-  
16 ices.

17 (14) MEDICAL PRODUCT.—The term “medical  
18 product” means a drug, device, or biological product  
19 intended for humans, and the terms “drug”, “de-  
20 vice”, and “biological product” have the meanings  
21 given such terms in sections 201(g)(1) and 201(h)  
22 of the Federal Food, Drug and Cosmetic Act (21  
23 U.S.C. 321(g)(1) and (h)) and section 351(a) of the  
24 Public Health Service Act (42 U.S.C. 262(a)), re-

1       spectively, including any component or raw material  
2       used therein, but excluding health care services.

3           (15) NONECONOMIC DAMAGES.—The term  
4       “noneconomic damages” means damages for phys-  
5       ical and emotional pain, suffering, inconvenience,  
6       physical impairment, mental anguish, disfigurement,  
7       loss of enjoyment of life, loss of society and compan-  
8       ionship, loss of consortium (other than loss of do-  
9       mestic service), hedonic damages, injury to reputa-  
10      tion, and all other nonpecuniary losses of any kind  
11      or nature.

12          (16) PUNITIVE DAMAGES.—The term “punitive  
13      damages” means damages awarded, for the purpose  
14      of punishment or deterrence, and not solely for com-  
15      pensatory purposes, against a health care provider,  
16      health care organization, or a manufacturer, dis-  
17      tributor, or supplier of a medical product. Punitive  
18      damages are neither economic nor noneconomic  
19      damages.

20          (17) RECOVERY.—The term “recovery” means  
21      the net sum recovered after deducting any disburse-  
22      ments or costs incurred in connection with prosecu-  
23      tion or settlement of the claim, including all costs  
24      paid or advanced by any person. Costs of health care  
25      incurred by the plaintiff and the attorneys’ office

1 overhead costs or charges for legal services are not  
2 deductible disbursements or costs for such purpose.

3 (18) STATE.—The term “State” means each of  
4 the several States, the District of Columbia, the  
5 Commonwealth of Puerto Rico, the Virgin Islands,  
6 Guam, American Samoa, the Northern Mariana Is-  
7 lands, the Trust Territory of the Pacific Islands, and  
8 any other territory or possession of the United  
9 States, or any political subdivision thereof.

10 **SEC. 229. EFFECT ON OTHER LAWS.**

11 (a) VACCINE INJURY.—

12 (1) To the extent that title XXI of the Public  
13 Health Service Act establishes a Federal rule of law  
14 applicable to a civil action brought for a vaccine-re-  
15 lated injury or death—

16 (A) this subtitle does not affect the appli-  
17 cation of the rule of law to such an action; and

18 (B) any rule of law prescribed by this sub-  
19 title in conflict with a rule of law of such title  
20 XXI shall not apply to such action.

21 (2) If there is an aspect of a civil action  
22 brought for a vaccine-related injury or death to  
23 which a Federal rule of law under title XXI of the  
24 Public Health Service Act does not apply, then this  
25 subtitle or otherwise applicable law (as determined

1 under this subtitle) will apply to such aspect of such  
2 action.

3 (b) OTHER FEDERAL LAW.—Except as provided in  
4 this section, nothing in this subtitle shall be deemed to  
5 affect any defense available to a defendant in a health care  
6 lawsuit or action under any other provision of Federal law.

7 **SEC. 230. STATE FLEXIBILITY AND PROTECTION OF**  
8 **STATES' RIGHTS.**

9 (a) HEALTH CARE LAWSUITS.—The provisions gov-  
10 erning health care lawsuits set forth in this subtitle pre-  
11 empt, subject to subsections (b) and (c), State law to the  
12 extent that State law prevents the application of any pro-  
13 visions of law established by or under this subtitle. The  
14 provisions governing health care lawsuits set forth in this  
15 subtitle supersede chapter 171 of title 28, United States  
16 Code, to the extent that such chapter—

17 (1) provides for a greater amount of damages  
18 or contingent fees, a longer period in which a health  
19 care lawsuit may be commenced, or a reduced appli-  
20 cability or scope of periodic payment of future dam-  
21 ages, than provided in this subtitle; or

22 (2) prohibits the introduction of evidence re-  
23 garding collateral source benefits, or mandates or  
24 permits subrogation or a lien on collateral source  
25 benefits.

1 (b) PROTECTION OF STATES' RIGHTS AND OTHER  
2 LAWS.—(1) Any issue that is not governed by any provi-  
3 sion of law established by or under this subtitle (including  
4 State standards of negligence) shall be governed by other-  
5 wise applicable State or Federal law.

6 (2) This subtitle shall not preempt or supersede any  
7 State or Federal law that imposes greater procedural or  
8 substantive protections for health care providers and  
9 health care organizations from liability, loss, or damages  
10 than those provided by this subtitle or create a cause of  
11 action.

12 (c) STATE FLEXIBILITY.—No provision of this sub-  
13 title shall be construed to preempt—

14 (1) any State law (whether effective before, on,  
15 or after the date of the enactment of this subtitle)  
16 that specifies a particular monetary amount of com-  
17 pensatory or punitive damages (or the total amount  
18 of damages) that may be awarded in a health care  
19 lawsuit, regardless of whether such monetary  
20 amount is greater or lesser than is provided for  
21 under this subtitle, notwithstanding section 223(a);  
22 or

23 (2) any defense available to a party in a health  
24 care lawsuit under any other provision of State or  
25 Federal law.

1 **SEC. 231. APPLICABILITY; EFFECTIVE DATE.**

2 This subtitle shall apply to any health care lawsuit  
 3 brought in a Federal or State court, or subject to an alter-  
 4 native dispute resolution system, that is initiated on or  
 5 after the date of the enactment of this subtitle, except that  
 6 any health care lawsuit arising from an injury occurring  
 7 prior to the date of the enactment of this subtitle shall  
 8 be governed by the applicable statute of limitations provi-  
 9 sions in effect at the time the injury occurred.

10 **TITLE III—FINANCIAL SERVICES**

11 **SEC. 301. TABLE OF CONTENTS.**

12 The table of contents for this title is as follows:

TITLE III—FINANCIAL SERVICES

Sec. 301. Table of contents.

Subtitle A—Orderly Liquidation Fund

Sec. 311. Repeal of liquidation authority.

Subtitle B—Home Affordable Modification Program

Sec. 321. Short title.

Sec. 322. Congressional findings.

Sec. 323. Termination of authority.

Sec. 324. Sense of Congress.

Subtitle C—Bureau of Consumer Financial Protection

Sec. 331. Bringing the Bureau of Consumer Financial Protection into the reg-  
 ular appropriations process.

Subtitle D—Flood Insurance Reform

Sec. 341. Short title.

Sec. 342. Extensions.

Sec. 343. Mandatory purchase.

Sec. 344. Reforms of coverage terms.

Sec. 345. Reforms of premium rates.

Sec. 346. Technical Mapping Advisory Council.

Sec. 347. FEMA incorporation of new mapping protocols.

Sec. 348. Treatment of levees.

Sec. 349. Privatization initiatives.

Sec. 350. FEMA annual report on insurance program.

- Sec. 351. Mitigation assistance.
- Sec. 352. Notification to homeowners regarding mandatory purchase requirement applicability and rate phase-ins.
- Sec. 353. Notification to members of congress of flood map revisions and updates.
- Sec. 354. Notification and appeal of map changes; notification to communities of establishment of flood elevations.
- Sec. 355. Notification to tenants of availability of contents insurance.
- Sec. 356. Notification to policy holders regarding direct management of policy by FEMA.
- Sec. 357. Notice of availability of flood insurance and escrow in RESPA good faith estimate.
- Sec. 358. Reimbursement for costs incurred by homeowners and communities obtaining letters of map amendment or revision.
- Sec. 359. Enhanced communication with certain communities during map updating process.
- Sec. 360. Notification to residents newly included in flood hazard areas.
- Sec. 361. Treatment of swimming pool enclosures outside of hurricane season.
- Sec. 362. Information regarding multiple perils claims.
- Sec. 363. FEMA authority to reject transfer of policies.
- Sec. 364. Appeals.
- Sec. 365. Reserve fund.
- Sec. 366. CDBG eligibility for flood insurance outreach activities and community building code administration grants.
- Sec. 367. Technical corrections.
- Sec. 368. Requiring competition for national flood insurance program policies.
- Sec. 369. Studies of voluntary community-based flood insurance options.
- Sec. 370. Report on inclusion of building codes in floodplain management criteria.
- Sec. 371. Study on graduated risk.
- Sec. 372. Report on flood-in-progress determination.
- Sec. 373. Study on repaying flood insurance debt.
- Sec. 374. No cause of action.
- Sec. 375. Authority for the corps of engineers to provide specialized or technical services.

Subtitle E—Repeal of the Office of Financial Research

- Sec. 381. Repeal of the Office of Financial Research.

1     **Subtitle A—Orderly Liquidation**  
2                                     **Fund**

3     **SEC. 311. REPEAL OF LIQUIDATION AUTHORITY.**

- 4             (a) IN GENERAL.—Title II of the Dodd-Frank Wall  
5 Street Reform and Consumer Protection Act is hereby re-  
6 pealed and any Federal law amended by such title shall,  
7 on and after the date of enactment of this Act, be effective

1 as if title II of the Dodd-Frank Wall Street Reform and  
2 Consumer Protection Act had not been enacted.

3 (b) CONFORMING AMENDMENTS.—

4 (1) DODD-FRANK WALL STREET REFORM AND  
5 CONSUMER PROTECTION ACT.—The Dodd-Frank  
6 Wall Street Reform and Consumer Protection Act is  
7 amended—

8 (A) in the table of contents for such Act,  
9 by striking all items relating to title II;

10 (B) in section 165(d)(6), by striking “, a  
11 receiver appointed under title II,”;

12 (C) in section 716(g), by striking “or a  
13 covered financial company under title II”;

14 (D) in section 1105(e)(5), by striking  
15 “amount of any securities issued under that  
16 chapter 31 for such purpose shall be treated in  
17 the same manner as securities issued under sec-  
18 tion 208(n)(5)(E)” and inserting “issuances of  
19 such securities under that chapter 31 for such  
20 purpose shall by treated as public debt trans-  
21 actions of the United States, and the proceeds  
22 from the sale of any obligations acquired by the  
23 Secretary under this paragraph shall be depos-  
24 ited into the Treasury of the United States as  
25 miscellaneous receipts”; and



1 (E) in section 1106(c)(2), by amending  
2 subparagraph (A) to read as follows:

3 “(A) require the company to file a petition  
4 for bankruptcy under section 301 of title 11,  
5 United States Code; or”.

6 (2) FEDERAL DEPOSIT INSURANCE ACT.—Sec-  
7 tion 10(b)(3) of the Federal Deposit Insurance Act  
8 (12 U.S.C. 1820(b)(3)) is amended by striking “, or  
9 of such nonbank financial company supervised by  
10 the Board of Governors or bank holding company  
11 described in section 165(a) of the Financial Stability  
12 Act of 2010, for the purpose of implementing its au-  
13 thority to provide for orderly liquidation of any such  
14 company under title II of that Act”.

15 (3) FEDERAL RESERVE ACT.—Section 13(3) of  
16 the Federal Reserve Act is amended—

17 (A) in subparagraph (B)—

18 (i) in clause (ii), by striking “, resolu-  
19 tion under title II of the Dodd-Frank Wall  
20 Street Reform and Consumer Protection  
21 Act, or” and inserting “or is subject to  
22 resolution under”; and

23 (ii) in clause (iii), by striking “, reso-  
24 lution under title II of the Dodd-Frank  
25 Wall Street Reform and Consumer Protec-

1                   tion Act, or” and inserting “or resolution  
2                   under”; and

3                   (B) by striking subparagraph (E).

4                   **Subtitle B—Home Affordable**  
5                   **Modification Program**

6                   **SEC. 321. SHORT TITLE.**

7                   This subtitle may be cited as the “HAMP Termi-  
8                   nation Act of 2012”.

9                   **SEC. 322. CONGRESSIONAL FINDINGS.**

10                  The Congress finds the following:

11                   (1) According to the Department of the Treas-  
12                  ury—

13                           (A) the Home Affordable Modification Pro-  
14                           gram (HAMP) is designed to “help as many as  
15                           3 to 4 million financially struggling homeowners  
16                           avoid foreclosure by modifying loans to a level  
17                           that is affordable for borrowers now and sus-  
18                           tainable over the long term”; and

19                           (B) as of February 2012, only 782,609 ac-  
20                           tive permanent mortgage modifications were  
21                           made under HAMP.

22                   (2) Many homeowners whose HAMP modifica-  
23                  tions were canceled suffered because they made fu-  
24                  tile payments and some of those homeowners were  
25                  even forced into foreclosure.

1           (3) The Special Inspector General for TARP  
2 reported that HAMP “benefits only a small portion  
3 of distressed homeowners, offers others little more  
4 than false hope, and in certain cases causes more  
5 harm than good”.

6           (4) Approximately \$30 billion was obligated by  
7 the Department of the Treasury to HAMP, however,  
8 approximately only \$2.54 billion has been disbursed.

9           (5) Terminating HAMP would save American  
10 taxpayers approximately \$2.84 billion, according to  
11 the Congressional Budget Office.

12 **SEC. 323. TERMINATION OF AUTHORITY.**

13           Section 120 of the Emergency Economic Stabilization  
14 Act of 2008 (12 U.S.C. 5230) is amended by adding at  
15 the end the following new subsection:

16           “(c) TERMINATION OF AUTHORITY TO PROVIDE  
17 NEW ASSISTANCE UNDER THE HOME AFFORDABLE  
18 MODIFICATION PROGRAM.—

19           “(1) IN GENERAL.—Except as provided under  
20 paragraph (2), after the date of the enactment of  
21 this subsection the Secretary may not provide any  
22 assistance under the Home Affordable Modification  
23 Program under the Making Home Affordable initia-  
24 tive of the Secretary, authorized under this Act, on  
25 behalf of any homeowner.

1           “(2) PROTECTION OF EXISTING OBLIGATIONS  
2           ON BEHALF OF HOMEOWNERS ALREADY EXTENDED  
3           AN OFFER TO PARTICIPATE IN THE PROGRAM.—  
4           Paragraph (1) shall not apply with respect to assist-  
5           ance provided on behalf of a homeowner who, before  
6           the date of the enactment of this subsection, was ex-  
7           tended an offer to participate in the Home Afford-  
8           able Modification Program on a trial or permanent  
9           basis.

10           “(3) DEFICIT REDUCTION.—

11           “(A) USE OF UNOBLIGATED FUNDS.—Not-  
12           withstanding any other provision of this title,  
13           the amounts described in subparagraph (B)  
14           shall not be available after the date of the en-  
15           actment of this subsection for obligation or ex-  
16           penditure under the Home Affordable Modifica-  
17           tion Program of the Secretary, but should be  
18           covered into the General Fund of the Treasury  
19           and should be used only for reducing the budg-  
20           et deficit of the Federal Government.

21           “(B) IDENTIFICATION OF UNOBLIGATED  
22           FUNDS.—The amounts described in this sub-  
23           paragraph are any amounts made available  
24           under title I of the Emergency Economic Sta-  
25           bilization Act of 2008 that—

1           “(i) have been allocated for use, but  
2           not yet obligated as of the date of the en-  
3           actment of this subsection, under the  
4           Home Affordable Modification Program of  
5           the Secretary; and

6           “(ii) are not necessary for providing  
7           assistance under such Program on behalf  
8           of homeowners who, pursuant to para-  
9           graph (2), may be provided assistance  
10          after the date of the enactment of this sub-  
11          section.

12           “(4) STUDY OF USE OF PROGRAM BY MEMBERS  
13          OF THE ARMED FORCES, VETERANS, AND GOLD  
14          STAR RECIPIENTS.—

15           “(A) STUDY.—The Secretary shall conduct  
16          a study to determine the extent of usage of the  
17          Home Affordable Modification Program by, and  
18          the impact of such Program on, covered home-  
19          owners.

20           “(B) REPORT.—Not later than the expira-  
21          tion of the 90-day period beginning on the date  
22          of the enactment of this subsection, the Sec-  
23          retary shall submit to the Congress a report  
24          setting forth the results of the study under sub-  
25          paragraph (A) and identifying best practices,

1 derived from studying the Home Affordable  
2 Modification Program, that could be applied to  
3 existing mortgage assistance programs available  
4 to covered homeowners.

5 “(C) COVERED HOMEOWNER.—For pur-  
6 poses of this subsection, the term ‘covered  
7 homeowner’ means a homeowner who is—

8 “(i) a member of the Armed Forces of  
9 the United States on active duty or the  
10 spouse or parent of such a member;

11 “(ii) a veteran, as such term is de-  
12 fined in section 101 of title 38, United  
13 States Code; or

14 “(iii) eligible to receive a Gold Star  
15 lapel pin under section 1126 of title 10,  
16 United States Code, as a widow, parent, or  
17 next of kin of a member of the Armed  
18 Forces person who died in a manner de-  
19 scribed in subsection (a) of such section.

20 “(5) PUBLICATION OF MEMBER AVAILABILITY  
21 FOR ASSISTANCE.—Not later than 5 days after the  
22 date of the enactment of this subsection, the Sec-  
23 retary of the Treasury shall publish to its Website  
24 on the World Wide Web in a prominent location,  
25 large point font, and boldface type the following

1 statement: ‘The Home Affordable Modification Pro-  
2 gram (HAMP) has been terminated. If you are hav-  
3 ing trouble paying your mortgage and need help con-  
4 tacting your lender or servicer for purposes of nego-  
5 tiating or acquiring a loan modification, please con-  
6 tact your Member of Congress to assist you in con-  
7 tacting your lender or servicer for the purpose of ne-  
8 gotiating or acquiring a loan modification.’.

9 “(6) NOTIFICATION TO HAMP APPLICANTS RE-  
10 QUIRED.—Not later than 30 days after the date of  
11 the enactment of this subsection, the Secretary of  
12 the Treasury shall inform each individual who ap-  
13 plied for the Home Affordable Modification Program  
14 and will not be considered for a modification under  
15 such Program due to termination of such Program  
16 under this subsection—

17 “(A) that such Program has been termi-  
18 nated;

19 “(B) that loan modifications under such  
20 Program are no longer available;

21 “(C) of the name and contact information  
22 of such individual’s Member of Congress; and

23 “(D) that the individual should contact his  
24 or her Member of Congress to assist the indi-  
25 vidual in contacting the individual’s lender or

1           servicer for the purpose of negotiating or ac-  
2           quiring a loan modification.”.

3 **SEC. 324. SENSE OF CONGRESS.**

4           The Congress encourages banks to work with home-  
5 owners to provide loan modifications to those that are eli-  
6 gible. The Congress also encourages banks to work and  
7 assist homeowners and prospective homeowners with fore-  
8 closure prevention programs and information on loan  
9 modifications.

10           **Subtitle C—Bureau of Consumer**  
11                           **Financial Protection**

12 **SEC. 331. BRINGING THE BUREAU OF CONSUMER FINAN-**  
13                           **CIAL PROTECTION INTO THE REGULAR AP-**  
14                           **PROPRIATIONS PROCESS.**

15           Section 1017 of the Consumer Financial Protection  
16 Act of 2010 is amended—

17                   (1) in subsection (a)—

18                           (A) by amending the heading of such sub-  
19 section to read as follows: “BUDGET, FINAN-  
20 CIAL MANAGEMENT, AND AUDIT.—”;

21                           (B) by striking paragraphs (1), (2), and  
22 (3);

23                           (C) by redesignating paragraphs (4) and  
24 (5) as paragraphs (1) and (2), respectively; and



1 (D) by striking subparagraphs (E) and (F)  
2 of paragraph (1), as so redesignated;

3 (2) by striking subsections (b), (c), and (d);

4 (3) by redesignating subsection (e) as sub-  
5 section (b); and

6 (4) in subsection (b), as so redesignated—

7 (A) by striking paragraphs (1), (2), and  
8 (3) and inserting the following:

9 “(1) AUTHORIZATION OF APPROPRIATIONS.—

10 There is authorized to be appropriated  
11 \$200,000,000 to carry out this title for each of fiscal  
12 years 2012 and 2013.”; and

13 (B) by redesignating paragraph (4) as  
14 paragraph (2).

15 **Subtitle D—Flood Insurance**  
16 **Reform**

17 **SEC. 341. SHORT TITLE.**

18 This subtitle may be cited as the “Flood Insurance  
19 Reform Act of 2012”.

20 **SEC. 342. EXTENSIONS.**

21 (a) EXTENSION OF PROGRAM.—Section 1319 of the  
22 National Flood Insurance Act of 1968 (42 U.S.C. 4026)  
23 is amended by striking “the earlier of the date of the en-  
24 actment into law of an Act that specifically amends the

1 date specified in this section or May 31, 2012” and insert-  
2 ing “September 30, 2016”.

3 (b) EXTENSION OF FINANCING.—Section 1309(a) of  
4 such Act (42 U.S.C. 4016(a)) is amended by striking “the  
5 earlier of the date of the enactment into law of an Act  
6 that specifically amends the date specified in this section  
7 or May 31, 2012” and inserting “September 30, 2016”.

8 **SEC. 343. MANDATORY PURCHASE.**

9 (a) AUTHORITY TO TEMPORARILY SUSPEND MANDA-  
10 TORY PURCHASE REQUIREMENT.—

11 (1) IN GENERAL.—Section 102 of the Flood  
12 Disaster Protection Act of 1973 (42 U.S.C. 4012a)  
13 is amended by adding at the end the following new  
14 subsection:

15 “(i) AUTHORITY TO TEMPORARILY SUSPEND MAN-  
16 DATORY PURCHASE REQUIREMENT.—

17 “(1) FINDING BY ADMINISTRATOR THAT AREA  
18 IS AN ELIGIBLE AREA.—For any area, upon a re-  
19 quest submitted to the Administrator by a local gov-  
20 ernment authority having jurisdiction over any por-  
21 tion of the area, the Administrator shall make a  
22 finding of whether the area is an eligible area under  
23 paragraph (3). If the Administrator finds that such  
24 area is an eligible area, the Administrator shall, in  
25 the discretion of the Administrator, designate a pe-

1       riod during which such finding shall be effective,  
2       which shall not be longer in duration than 12  
3       months.

4               “(2) SUSPENSION OF MANDATORY PURCHASE  
5       REQUIREMENT.—If the Administrator makes a find-  
6       ing under paragraph (1) that an area is an eligible  
7       area under paragraph (3), during the period speci-  
8       fied in the finding, the designation of such eligible  
9       area as an area having special flood hazards shall  
10      not be effective for purposes of subsections (a), (b),  
11      and (e) of this section, and section 202(a) of this  
12      Act. Nothing in this paragraph may be construed to  
13      prevent any lender, servicer, regulated lending insti-  
14      tution, Federal agency lender, the Federal National  
15      Mortgage Association, or the Federal Home Loan  
16      Mortgage Corporation, at the discretion of such enti-  
17      ty, from requiring the purchase of flood insurance  
18      coverage in connection with the making, increasing,  
19      extending, or renewing of a loan secured by im-  
20      proved real estate or a mobile home located or to be  
21      located in such eligible area during such period or  
22      a lender or servicer from purchasing coverage on be-  
23      half of a borrower pursuant to subsection (e).

24               “(3) ELIGIBLE AREAS.—An eligible area under  
25      this paragraph is an area that is designated or will,

1 pursuant to any issuance, revision, updating, or  
2 other change in flood insurance maps that takes ef-  
3 fect on or after the date of the enactment of the  
4 Flood Insurance Reform Act of 2012, become des-  
5 ignated as an area having special flood hazards and  
6 that meets any one of the following 3 requirements:

7 “(A) AREAS WITH NO HISTORY OF SPE-  
8 CIAL FLOOD HAZARDS.—The area does not in-  
9 clude any area that has ever previously been  
10 designated as an area having special flood haz-  
11 ards.

12 “(B) AREAS WITH FLOOD PROTECTION  
13 SYSTEMS UNDER IMPROVEMENTS.—The area  
14 was intended to be protected by a flood protec-  
15 tion system—

16 “(i) that has been decertified, or is re-  
17 quired to be certified, as providing protec-  
18 tion for the 100-year frequency flood  
19 standard;

20 “(ii) that is being improved, con-  
21 structed, or reconstructed; and

22 “(iii) for which the Administrator has  
23 determined measurable progress toward  
24 completion of such improvement, construc-  
25 tion, reconstruction is being made and to-

1           ward securing financial commitments suffi-  
2           cient to fund such completion.

3           “(C) AREAS FOR WHICH APPEAL HAS  
4           BEEN FILED.—An area for which a community  
5           has appealed designation of the area as having  
6           special flood hazards in a timely manner under  
7           section 1363.

8           “(4) EXTENSION OF DELAY.—Upon a request  
9           submitted by a local government authority having  
10          jurisdiction over any portion of the eligible area, the  
11          Administrator may extend the period during which a  
12          finding under paragraph (1) shall be effective, ex-  
13          cept that—

14                 “(A) each such extension under this para-  
15                 graph shall not be for a period exceeding 12  
16                 months; and

17                 “(B) for any area, the cumulative number  
18                 of such extensions may not exceed 2.

19           “(5) ADDITIONAL EXTENSION FOR COMMU-  
20           NITIES MAKING MORE THAN ADEQUATE PROGRESS  
21           ON FLOOD PROTECTION SYSTEM.—

22                 “(A) EXTENSION.—

23                         “(i) AUTHORITY.—Except as provided  
24                         in subparagraph (B), in the case of an eli-  
25                         gible area for which the Administrator has,

1           pursuant to paragraph (4), extended the  
2           period of effectiveness of the finding under  
3           paragraph (1) for the area, upon a request  
4           submitted by a local government authority  
5           having jurisdiction over any portion of the  
6           eligible area, if the Administrator finds  
7           that more than adequate progress has been  
8           made on the construction of a flood protec-  
9           tion system for such area, as determined in  
10          accordance with the last sentence of sec-  
11          tion 1307(e) of the National Flood Insur-  
12          ance Act of 1968 (42 U.S.C. 4014(e)), the  
13          Administrator may, in the discretion of the  
14          Administrator, further extend the period  
15          during which the finding under paragraph  
16          (1) shall be effective for such area for an  
17          additional 12 months.

18                 “(ii) LIMIT.—For any eligible area,  
19                 the cumulative number of extensions under  
20                 this subparagraph may not exceed 2.

21                 “(B) EXCLUSION FOR NEW MORTGAGES.—

22                         “(i) EXCLUSION.—Any extension  
23                         under subparagraph (A) of this paragraph  
24                         of a finding under paragraph (1) shall not  
25                         be effective with respect to any excluded

1 property after the origination, increase, ex-  
2 tension, or renewal of the loan referred to  
3 in clause (ii)(II) for the property.

4 “(ii) EXCLUDED PROPERTIES.—For  
5 purposes of this subparagraph, the term  
6 ‘excluded property’ means any improved  
7 real estate or mobile home—

8 “(I) that is located in an eligible  
9 area; and

10 “(II) for which, during the period  
11 that any extension under subpara-  
12 graph (A) of this paragraph of a find-  
13 ing under paragraph (1) is otherwise  
14 in effect for the eligible area in which  
15 such property is located—

16 “(aa) a loan that is secured  
17 by the property is originated; or

18 “(bb) any existing loan that  
19 is secured by the property is in-  
20 creased, extended, or renewed.

21 “(6) RULE OF CONSTRUCTION.—Nothing in  
22 this subsection may be construed to affect the appli-  
23 cability of a designation of any area as an area hav-  
24 ing special flood hazards for purposes of the avail-  
25 ability of flood insurance coverage, criteria for land

1 management and use, notification of flood hazards,  
2 eligibility for mitigation assistance, or any other pur-  
3 pose or provision not specifically referred to in para-  
4 graph (2).

5 “(7) REPORTS.—The Administrator shall, in  
6 each annual report submitted pursuant to section  
7 1320, include information identifying each finding  
8 under paragraph (1) by the Administrator during  
9 the preceding year that an area is an area having  
10 special flood hazards, the basis for each such find-  
11 ing, any extensions pursuant to paragraph (4) of the  
12 periods of effectiveness of such findings, and the  
13 reasons for such extensions.”.

14 (2) NO REFUNDS.—Nothing in this subsection  
15 or the amendments made by this subsection may be  
16 construed to authorize or require any payment or re-  
17 fund for flood insurance coverage purchased for any  
18 property that covered any period during which such  
19 coverage is not required for the property pursuant to  
20 the applicability of the amendment made by para-  
21 graph (1).

22 (b) TERMINATION OF FORCE-PLACED INSURANCE.—  
23 Section 102(e) of the Flood Disaster Protection Act of  
24 1973 (42 U.S.C. 4012a(e)) is amended—



1           (1) in paragraph (2), by striking “insurance.”  
2           and inserting “insurance, including premiums or  
3           fees incurred for coverage beginning on the date on  
4           which flood insurance coverage lapsed or did not  
5           provide a sufficient coverage amount.”;

6           (2) by redesignating paragraphs (3) and (4) as  
7           paragraphs (5) and 6), respectively; and

8           (3) by inserting after paragraph (2) the fol-  
9           lowing new paragraphs:

10           “(3) TERMINATION OF FORCE-PLACED INSUR-  
11           ANCE.—Within 30 days of receipt by the lender or  
12           servicer of a confirmation of a borrower’s existing  
13           flood insurance coverage, the lender or servicer  
14           shall—

15                   “(A) terminate the force-placed insurance;  
16                   and

17                   “(B) refund to the borrower all force-  
18                   placed insurance premiums paid by the bor-  
19                   rower during any period during which the bor-  
20                   rower’s flood insurance coverage and the force-  
21                   placed flood insurance coverage were each in ef-  
22                   fect, and any related fees charged to the bor-  
23                   rower with respect to the force-placed insurance  
24                   during such period.

1           “(4) SUFFICIENCY OF DEMONSTRATION.—For  
2 purposes of confirming a borrower’s existing flood  
3 insurance coverage, a lender or servicer for a loan  
4 shall accept from the borrower an insurance policy  
5 declarations page that includes the existing flood in-  
6 surance policy number and the identity of, and con-  
7 tact information for, the insurance company or  
8 agent.”.

9           (c) USE OF PRIVATE INSURANCE TO SATISFY MAN-  
10 DATORY PURCHASE REQUIREMENT.—Section 102(b) of  
11 the Flood Disaster Protection Act of 1973 (42 U.S.C.  
12 4012a(b)) is amended—

13           (1) in paragraph (1)—

14           (A) by striking “lending institutions not to  
15 make” and inserting “lending institutions—

16           “(A) not to make”;

17           (B) in subparagraph (A), as designated by  
18 subparagraph (A) of this paragraph, by striking  
19 “less.” and inserting “less; and”; and

20           (C) by adding at the end the following new  
21 subparagraph:

22           “(B) to accept private flood insurance as  
23 satisfaction of the flood insurance coverage re-  
24 quirement under subparagraph (A) if the cov-  
25 erage provided by such private flood insurance

1           meets the requirements for coverage under such  
2           subparagraph.”;

3           (2) in paragraph (2), by inserting after “pro-  
4           vided in paragraph (1).” the following new sentence:  
5           “Each Federal agency lender shall accept private  
6           flood insurance as satisfaction of the flood insurance  
7           coverage requirement under the preceding sentence  
8           if the flood insurance coverage provided by such pri-  
9           vate flood insurance meets the requirements for cov-  
10          erage under such sentence.”;

11          (3) in paragraph (3), in the matter following  
12          subparagraph (B), by adding at the end the fol-  
13          lowing new sentence: “The Federal National Mort-  
14          gage Association and the Federal Home Loan Mort-  
15          gage Corporation shall accept private flood insurance  
16          as satisfaction of the flood insurance coverage re-  
17          quirement under the preceding sentence if the flood  
18          insurance coverage provided by such private flood in-  
19          surance meets the requirements for coverage under  
20          such sentence.”; and

21          (4) by adding at the end the following new  
22          paragraph:

23                 “(5) PRIVATE FLOOD INSURANCE DEFINED.—  
24                 In this subsection, the term ‘private flood insurance’

1 means a contract for flood insurance coverage al-  
2 lowed for sale under the laws of any State.”.

3 **SEC. 344. REFORMS OF COVERAGE TERMS.**

4 (a) MINIMUM DEDUCTIBLES FOR CLAIMS.—Section  
5 1312 of the National Flood Insurance Act of 1968 (42  
6 U.S.C. 4019) is amended—

7 (1) by striking “The Director is” and inserting  
8 the following: “(a) IN GENERAL.—The Adminis-  
9 trator is”; and

10 (2) by adding at the end the following:

11 “(b) MINIMUM ANNUAL DEDUCTIBLES.—

12 “(1) SUBSIDIZED RATE PROPERTIES.—For any  
13 structure that is covered by flood insurance under  
14 this title, and for which the chargeable rate for such  
15 coverage is less than the applicable estimated risk  
16 premium rate under section 1307(a)(1) for the area  
17 (or subdivision thereof) in which such structure is  
18 located, the minimum annual deductible for damage  
19 to or loss of such structure shall be \$2,000.

20 “(2) ACTUARIAL RATE PROPERTIES.—For any  
21 structure that is covered by flood insurance under  
22 this title, for which the chargeable rate for such cov-  
23 erage is not less than the applicable estimated risk  
24 premium rate under section 1307(a)(1) for the area  
25 (or subdivision thereof) in which such structure is

1 located, the minimum annual deductible for damage  
2 to or loss of such structure shall be \$1,000.”.

3 (b) CLARIFICATION OF RESIDENTIAL AND COMMER-  
4 CIAL COVERAGE LIMITS.—Section 1306(b) of the Na-  
5 tional Flood Insurance Act of 1968 (42 U.S.C. 4013(b))  
6 is amended—

7 (1) in paragraph (2)—

8 (A) by striking “in the case of any residen-  
9 tial property” and inserting “in the case of any  
10 residential building designed for the occupancy  
11 of from one to four families”; and

12 (B) by striking “shall be made available to  
13 every insured upon renewal and every applicant  
14 for insurance so as to enable such insured or  
15 applicant to receive coverage up to a total  
16 amount (including such limits specified in para-  
17 graph (1)(A)(i)) of \$250,000” and inserting  
18 “shall be made available, with respect to any  
19 single such building, up to an aggregate liability  
20 (including such limits specified in paragraph  
21 (1)(A)(i)) of \$250,000”; and

22 (2) in paragraph (4)—

23 (A) by striking “in the case of any nonresi-  
24 dential property, including churches,” and in-

1           serting “in the case of any nonresidential build-  
2           ing, including a church,”; and

3           (B) by striking “shall be made available to  
4           every insured upon renewal and every applicant  
5           for insurance, in respect to any single structure,  
6           up to a total amount (including such limit spec-  
7           ified in subparagraph (B) or (C) of paragraph  
8           (1), as applicable) of \$500,000 for each struc-  
9           ture and \$500,000 for any contents related to  
10          each structure” and inserting “shall be made  
11          available with respect to any single such build-  
12          ing, up to an aggregate liability (including such  
13          limits specified in subparagraph (B) or (C) of  
14          paragraph (1), as applicable) of \$500,000, and  
15          coverage shall be made available up to a total  
16          of \$500,000 aggregate liability for contents  
17          owned by the building owner and \$500,000 ag-  
18          gregate liability for each unit within the build-  
19          ing for contents owned by the tenant”.

20          (c) INDEXING OF MAXIMUM COVERAGE LIMITS.—

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

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

1           (2) in paragraph (5), by striking the period at  
2 the end and inserting “; and”;

3           (3) by redesignating paragraph (5) as para-  
4 graph (7); and

5           (4) by adding at the end the following new  
6 paragraph:

7           “(8) each of the dollar amount limitations  
8 under paragraphs (2), (3), (4), (5), and (6) shall be  
9 adjusted effective on the date of the enactment of  
10 the Flood Insurance Reform Act of 2012, such ad-  
11 justments shall be calculated using the percentage  
12 change, over the period beginning on September 30,  
13 1994, and ending on such date of enactment, in  
14 such inflationary index as the Administrator shall,  
15 by regulation, specify, and the dollar amount of such  
16 adjustment shall be rounded to the next lower dollar;  
17 and the Administrator shall cause to be published in  
18 the Federal Register the adjustments under this  
19 paragraph to such dollar amount limitations; except  
20 that in the case of coverage for a property that is  
21 made available, pursuant to this paragraph, in an  
22 amount that exceeds the limitation otherwise appli-  
23 cable to such coverage as specified in paragraph (2),  
24 (3), (4), (5), or (6), the total of such coverage shall  
25 be made available only at chargeable rates that are

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

4 (d) OPTIONAL COVERAGE FOR LOSS OF USE OF PER-  
5 SONAL RESIDENCE AND BUSINESS INTERRUPTION.—Sub-  
6 section (b) of section 1306 of the National Flood Insur-  
7 ance Act of 1968 (42 U.S.C. 4013(b)), as amended by  
8 the preceding provisions of this section, is further amend-  
9 ed by inserting after paragraph (4) the following new  
10 paragraphs:

11 “(5) the Administrator may provide that, in the  
12 case of any residential property, each renewal or new  
13 contract for flood insurance coverage may provide  
14 not more than \$5,000 aggregate liability per dwell-  
15 ing unit for any necessary increases in living ex-  
16 penses incurred by the insured when losses from a  
17 flood make the residence unfit to live in, except  
18 that—

19 “(A) purchase of such coverage shall be at  
20 the option of the insured;

21 “(B) any such coverage shall be made  
22 available only at chargeable rates that are not  
23 less than the estimated premium rates for such  
24 coverage determined in accordance with section  
25 1307(a)(1); and



1           “(C) the Administrator may make such  
2 coverage available only if the Administrator  
3 makes a determination and causes notice of  
4 such determination to be published in the Fed-  
5 eral Register that—

6                   “(i) a competitive private insurance  
7 market for such coverage does not exist;  
8 and

9                   “(ii) the national flood insurance pro-  
10 gram has the capacity to make such cov-  
11 erage available without borrowing funds  
12 from the Secretary of the Treasury under  
13 section 1309 or otherwise;

14           “(6) the Administrator may provide that, in the  
15 case of any commercial property or other residential  
16 property, including multifamily rental property, cov-  
17 erage for losses resulting from any partial or total  
18 interruption of the insured’s business caused by  
19 damage to, or loss of, such property from a flood  
20 may be made available to every insured upon re-  
21 newal and every applicant, up to a total amount of  
22 \$20,000 per property, except that—

23                   “(A) purchase of such coverage shall be at  
24 the option of the insured;

1           “(B) any such coverage shall be made  
2           available only at chargeable rates that are not  
3           less than the estimated premium rates for such  
4           coverage determined in accordance with section  
5           1307(a)(1); and

6           “(C) the Administrator may make such  
7           coverage available only if the Administrator  
8           makes a determination and causes notice of  
9           such determination to be published in the Fed-  
10          eral Register that—

11                   “(i) a competitive private insurance  
12                   market for such coverage does not exist;  
13                   and

14                   “(ii) the national flood insurance pro-  
15                   gram has the capacity to make such cov-  
16                   erage available without borrowing funds  
17                   from the Secretary of the Treasury under  
18                   section 1309 or otherwise;”.

19          (e) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR  
20          RESIDENTIAL PROPERTIES.—Section 1306 of the Na-  
21          tional Flood Insurance Act of 1968 (42 U.S.C. 4013) is  
22          amended by adding at the end the following new sub-  
23          section:

24                   “(d) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR  
25          RESIDENTIAL PROPERTIES.—

1           “(1) AUTHORITY.—In addition to any other  
2 terms and conditions under subsection (a), such reg-  
3 ulations shall provide that, in the case of any resi-  
4 dential property, premiums for flood insurance cov-  
5 erage made available under this title for such prop-  
6 erty may be paid in installments.

7           “(2) LIMITATIONS.—In implementing the au-  
8 thority under paragraph (1), the Administrator may  
9 establish increased chargeable premium rates and  
10 surcharges, and deny coverage and establish such  
11 other sanctions, as the Administrator considers nec-  
12 essary to ensure that insureds purchase, pay for,  
13 and maintain coverage for the full term of a contract  
14 for flood insurance coverage or to prevent insureds  
15 from purchasing coverage only for periods during a  
16 year when risk of flooding is comparatively higher or  
17 canceling coverage for periods when such risk is  
18 comparatively lower.”.

19           (f) EFFECTIVE DATE OF POLICIES COVERING PROP-  
20 erties AFFECTED BY FLOODS IN PROGRESS.—Para-  
21 graph (1) of section 1306(c) of the National Flood Insur-  
22 ance Act of 1968 (42 U.S.C. 4013(c)) is amended by add-  
23 ing after the period at the end the following: “With respect  
24 to any flood that has commenced or is in progress before  
25 the expiration of such 30-day period, such flood insurance

1 coverage for a property shall take effect upon the expira-  
2 tion of such 30-day period and shall cover damage to such  
3 property occurring after the expiration of such period that  
4 results from such flood, but only if the property has not  
5 suffered damage or loss as a result of such flood before  
6 the expiration of such 30-day period.”.

7 **SEC. 345. REFORMS OF PREMIUM RATES.**

8 (a) INCREASE IN ANNUAL LIMITATION ON PREMIUM  
9 INCREASES.—Section 1308(e) of the National Flood In-  
10 surance Act of 1968 (42 U.S.C. 4015(e)) is amended by  
11 striking “10 percent” and inserting “20 percent”.

12 (b) PHASE-IN OF RATES FOR CERTAIN PROPERTIES  
13 IN NEWLY MAPPED AREAS.—

14 (1) IN GENERAL.—Section 1308 of the Na-  
15 tional Flood Insurance Act of 1968 (42 U.S.C.  
16 4015) is amended—

17 (A) in subsection (a), in the matter pre-  
18 ceding paragraph (1), by inserting “or notice”  
19 after “prescribe by regulation”;

20 (B) in subsection (c), by inserting “and  
21 subsection (g)” before the first comma; and

22 (C) by adding at the end the following new  
23 subsection:

1       “(g) 5-YEAR PHASE-IN OF FLOOD INSURANCE  
2 RATES FOR CERTAIN PROPERTIES IN NEWLY MAPPED  
3 AREAS.—

4           “(1) 5-YEAR PHASE-IN PERIOD.—Notwith-  
5 standing subsection (c) or any other provision of law  
6 relating to chargeable risk premium rates for flood  
7 insurance coverage under this title, in the case of  
8 any area that was not previously designated as an  
9 area having special flood hazards and that, pursuant  
10 to any issuance, revision, updating, or other change  
11 in flood insurance maps, becomes designated as such  
12 an area, during the 5-year period that begins, except  
13 as provided in paragraph (2), upon the date that  
14 such maps, as issued, revised, updated, or otherwise  
15 changed, become effective, the chargeable premium  
16 rate for flood insurance under this title with respect  
17 to any covered property that is located within such  
18 area shall be the rate described in paragraph (3).

19           “(2) APPLICABILITY TO PREFERRED RISK RATE  
20 AREAS.—In the case of any area described in para-  
21 graph (1) that consists of or includes an area that,  
22 as of date of the effectiveness of the flood insurance  
23 maps for such area referred to in paragraph (1) as  
24 so issued, revised, updated, or changed, is eligible  
25 for any reason for preferred risk rate method pre-

1       miums for flood insurance coverage and was eligible  
2       for such premiums as of the enactment of the Flood  
3       Insurance Reform Act of 2012, the 5-year period re-  
4       ferred to in paragraph (1) for such area eligible for  
5       preferred risk rate method premiums shall begin  
6       upon the expiration of the period during which such  
7       area is eligible for such preferred risk rate method  
8       premiums.

9               “(3) PHASE-IN OF FULL ACTUARIAL RATES.—  
10       With respect to any area described in paragraph (1),  
11       the chargeable risk premium rate for flood insurance  
12       under this title for a covered property that is located  
13       in such area shall be—

14               “(A) for the first year of the 5-year period  
15       referred to in paragraph (1), the greater of—

16               “(i) 20 percent of the chargeable risk  
17       premium rate otherwise applicable under  
18       this title to the property; and

19               “(ii) in the case of any property that,  
20       as of the beginning of such first year, is el-  
21       igible for preferred risk rate method pre-  
22       miums for flood insurance coverage, such  
23       preferred risk rate method premium for  
24       the property;

1           “(B) for the second year of such 5-year pe-  
2           riod, 40 percent of the chargeable risk premium  
3           rate otherwise applicable under this title to the  
4           property;

5           “(C) for the third year of such 5-year pe-  
6           riod, 60 percent of the chargeable risk premium  
7           rate otherwise applicable under this title to the  
8           property;

9           “(D) for the fourth year of such 5-year pe-  
10          riod, 80 percent of the chargeable risk premium  
11          rate otherwise applicable under this title to the  
12          property; and

13          “(E) for the fifth year of such 5-year pe-  
14          riod, 100 percent of the chargeable risk pre-  
15          mium rate otherwise applicable under this title  
16          to the property.

17          “(4) COVERED PROPERTIES.—For purposes of  
18          the subsection, the term ‘covered property’ means  
19          any residential property occupied by its owner or a  
20          bona fide tenant as a primary residence.”.

21          (2) REGULATION OR NOTICE.—The Adminis-  
22          trator of the Federal Emergency Management Agen-  
23          cy shall issue an interim final rule or notice to im-  
24          plement this subsection and the amendments made

1 by this subsection as soon as practicable after the  
2 date of the enactment of this Act.

3 (c) PHASE-IN OF ACTUARIAL RATES FOR CERTAIN  
4 PROPERTIES.—

5 (1) IN GENERAL.—Section 1308(c) of the Na-  
6 tional Flood Insurance Act of 1968 (42 U.S.C.  
7 4015(e)) is amended—

8 (A) by redesignating paragraph (2) as  
9 paragraph (7); and

10 (B) by inserting after paragraph (1) the  
11 following new paragraphs:

12 “(2) COMMERCIAL PROPERTIES.—Any nonresi-  
13 dential property.

14 “(3) SECOND HOMES AND VACATION HOMES.—  
15 Any residential property that is not the primary res-  
16 idence of any individual.

17 “(4) HOMES SOLD TO NEW OWNERS.—Any sin-  
18 gle family property that—

19 “(A) has been constructed or substantially  
20 improved and for which such construction or  
21 improvement was started, as determined by the  
22 Administrator, before December 31, 1974, or  
23 before the effective date of the initial rate map  
24 published by the Administrator under para-  
25 graph (2) of section 1360(a) for the area in



1           which such property is located, whichever is  
2           later; and

3           “(B) is purchased after the effective date  
4           of this paragraph, pursuant to section  
5           345(c)(3)(A) of the Flood Insurance Reform  
6           Act of 2012.

7           “(5) HOMES DAMAGED OR IMPROVED.—Any  
8           property that, on or after the date of the enactment  
9           of the Flood Insurance Reform Act of 2012, has ex-  
10          perienced or sustained—

11           “(A) substantial flood damage exceeding  
12           50 percent of the fair market value of such  
13           property; or

14           “(B) substantial improvement exceeding  
15           30 percent of the fair market value of such  
16           property.

17           “(6) HOMES WITH MULTIPLE CLAIMS.—Any se-  
18           vere repetitive loss property (as such term is defined  
19           in section 1366(j)).”.

20           (2) TECHNICAL AMENDMENTS.—Section 1308  
21           of the National Flood Insurance Act of 1968 (42  
22           U.S.C. 4015) is amended—

23           (A) in subsection (c)—

24           (i) in the matter preceding paragraph

25           (1), by striking “the limitations provided

1 under paragraphs (1) and (2)” and insert-  
2 ing “subsection (e)”;

3 (ii) in paragraph (1), by striking “,  
4 except” and all that follows through “sub-  
5 section (e)”;

6 (B) in subsection (e), by striking “para-  
7 graph (2) or (3)” and inserting “paragraph  
8 (7)”.

9 (3) EFFECTIVE DATE AND TRANSITION.—

10 (A) EFFECTIVE DATE.—The amendments  
11 made by paragraphs (1) and (2) shall apply be-  
12 ginning upon the expiration of the 12-month  
13 period that begins on the date of the enactment  
14 of this Act, except as provided in subparagraph  
15 (B) of this paragraph.

16 (B) TRANSITION FOR PROPERTIES COV-  
17 ERED BY FLOOD INSURANCE UPON EFFECTIVE  
18 DATE.—

19 (i) INCREASE OF RATES OVER TIME.—

20 In the case of any property described in  
21 paragraph (2), (3), (4), (5), or (6) of sec-  
22 tion 1308(c) of the National Flood Insur-  
23 ance Act of 1968, as amended by para-  
24 graph (1) of this subsection, that, as of the  
25 effective date under subparagraph (A) of

1 this paragraph, is covered under a policy  
2 for flood insurance made available under  
3 the national flood insurance program for  
4 which the chargeable premium rates are  
5 less than the applicable estimated risk pre-  
6 mium rate under section 1307(a)(1) of  
7 such Act for the area in which the prop-  
8 erty is located, the Administrator of the  
9 Federal Emergency Management Agency  
10 shall increase the chargeable premium  
11 rates for such property over time to such  
12 applicable estimated risk premium rate  
13 under section 1307(a)(1).

14 (ii) AMOUNT OF ANNUAL INCREASE.—

15 Such increase shall be made by increasing  
16 the chargeable premium rates for the prop-  
17 erty (after application of any increase in  
18 the premium rates otherwise applicable to  
19 such property), once during the 12-month  
20 period that begins upon the effective date  
21 under subparagraph (A) of this paragraph  
22 and once every 12 months thereafter until  
23 such increase is accomplished, by 20 per-  
24 cent (or such lesser amount as may be nec-  
25 essary so that the chargeable rate does not

1 exceed such applicable estimated risk pre-  
2 mium rate or to comply with clause (iii)).

3 (iii) PROPERTIES SUBJECT TO PHASE-  
4 IN AND ANNUAL INCREASES.—In the case  
5 of any pre-FIRM property (as such term is  
6 defined in section 578(b) of the National  
7 Flood Insurance Reform Act of 1974), the  
8 aggregate increase, during any 12-month  
9 period, in the chargeable premium rate for  
10 the property that is attributable to this  
11 subparagraph or to an increase described  
12 in section 1308(e) of the National Flood  
13 Insurance Act of 1968 may not exceed 20  
14 percent.

15 (iv) FULL ACTUARIAL RATES.—The  
16 provisions of paragraphs (2), (3), (4), (5),  
17 and (6) of such section 1308(c) shall apply  
18 to such a property upon the accomplish-  
19 ment of the increase under this subpara-  
20 graph and thereafter.

21 (d) PROHIBITION OF EXTENSION OF SUBSIDIZED  
22 RATES TO LAPSED POLICIES.—Section 1308 of the Na-  
23 tional Flood Insurance Act of 1968 (42 U.S.C. 4015), as  
24 amended by the preceding provisions of this subtitle, is  
25 further amended—

1           (1) in subsection (e), by inserting “or sub-  
2           section (h)” after “subsection (c)”; and

3           (2) by adding at the end the following new sub-  
4           section:

5           “(h) PROHIBITION OF EXTENSION OF SUBSIDIZED  
6 RATES TO LAPSED POLICIES.—Notwithstanding any  
7 other provision of law relating to chargeable risk premium  
8 rates for flood insurance coverage under this title, the Ad-  
9 ministrator shall not provide flood insurance coverage  
10 under this title for any property for which a policy for  
11 such coverage for the property has previously lapsed in  
12 coverage as a result of the deliberate choice of the holder  
13 of such policy, at a rate less than the applicable estimated  
14 risk premium rates for the area (or subdivision thereof)  
15 in which such property is located.”.

16           (e) RECOGNITION OF STATE AND LOCAL FUNDING  
17 FOR CONSTRUCTION, RECONSTRUCTION, AND IMPROVE-  
18 MENT OF FLOOD PROTECTION SYSTEMS IN DETERMINA-  
19 TION OF RATES.—

20           (1) IN GENERAL.—Section 1307 of the Na-  
21 tional Flood Insurance Act of 1968 (42 U.S.C.  
22 4014) is amended—

23                   (A) in subsection (e)—

24                           (i) in the first sentence, by striking  
25                           “construction of a flood protection system”

1 and inserting “construction, reconstruc-  
2 tion, or improvement of a flood protection  
3 system (without respect to the level of Fed-  
4 eral investment or participation)”; and

5 (ii) in the second sentence—

6 (I) by striking “construction of a  
7 flood protection system” and inserting  
8 “construction, reconstruction, or im-  
9 provement of a flood protection sys-  
10 tem”; and

11 (II) by inserting “based on the  
12 present value of the completed sys-  
13 tem” after “has been expended”; and  
14 (B) in subsection (f)—

15 (i) in the first sentence in the matter  
16 preceding paragraph (1), by inserting  
17 “(without respect to the level of Federal  
18 investment or participation)” before the  
19 period at the end;

20 (ii) in the third sentence in the matter  
21 preceding paragraph (1), by inserting “,  
22 whether coastal or riverine,” after “special  
23 flood hazard”; and

24 (iii) in paragraph (1), by striking “a  
25 Federal agency in consultation with the

1 local project sponsor” and inserting “the  
2 entity or entities that own, operate, main-  
3 tain, or repair such system”.

4 (2) REGULATIONS.—The Administrator of the  
5 Federal Emergency Management Agency shall pro-  
6 mulgate regulations to implement this subsection  
7 and the amendments made by this subsection as  
8 soon as practicable, but not more than 18 months  
9 after the date of the enactment of this Act. Para-  
10 graph (3) may not be construed to annul, alter, af-  
11 fect, authorize any waiver of, or establish any excep-  
12 tion to, the requirement under the preceding sen-  
13 tence.

14 **SEC. 346. TECHNICAL MAPPING ADVISORY COUNCIL.**

15 (a) ESTABLISHMENT.—There is established a council  
16 to be known as the Technical Mapping Advisory Council  
17 (in this section referred to as the “Council”).

18 (b) MEMBERSHIP.—

19 (1) IN GENERAL.—The Council shall consist  
20 of—

21 (A) the Administrator of the Federal  
22 Emergency Management Agency (in this section  
23 referred to as the “Administrator”), or the des-  
24 ignee thereof;

1 (B) the Director of the United States Geo-  
2 logical Survey of the Department of the Inte-  
3 rior, or the designee thereof;

4 (C) the Under Secretary of Commerce for  
5 Oceans and Atmosphere, or the designee there-  
6 of;

7 (D) the commanding officer of the United  
8 States Army Corps of Engineers, or the des-  
9 ignedee thereof;

10 (E) the chief of the Natural Resources  
11 Conservation Service of the Department of Ag-  
12 riculture, or the designee thereof;

13 (F) the Director of the United States Fish  
14 and Wildlife Service of the Department of the  
15 Interior, or the designee thereof;

16 (G) the Assistant Administrator for Fish-  
17 eries of the National Oceanic and Atmospheric  
18 Administration of the Department of Com-  
19 merce, or the designee thereof; and

20 (H) 14 additional members to be appointed  
21 by the Administrator of the Federal Emergency  
22 Management Agency, who shall be—

23 (i) an expert in data management;

24 (ii) an expert in real estate;

25 (iii) an expert in insurance;



- 1 (iv) a member of a recognized regional  
2 flood and storm water management organi-  
3 zation;
- 4 (v) a representative of a State emer-  
5 gency management agency or association  
6 or organization for such agencies;
- 7 (vi) a member of a recognized profes-  
8 sional surveying association or organiza-  
9 tion;
- 10 (vii) a member of a recognized profes-  
11 sional mapping association or organization;
- 12 (viii) a member of a recognized pro-  
13 fessional engineering association or organi-  
14 zation;
- 15 (ix) a member of a recognized profes-  
16 sional association or organization rep-  
17 resenting flood hazard determination firms;
- 18 (x) a representative of State national  
19 flood insurance coordination offices;
- 20 (xi) representatives of two local gov-  
21 ernments, at least one of whom is a local  
22 levee flood manager or executive, des-  
23 ignated by the Federal Emergency Man-  
24 agement Agency as Cooperating Technical  
25 Partners; and

1                   (xii) representatives of two State gov-  
2                   ernments designated by the Federal Emer-  
3                   gency Management Agency as Cooperating  
4                   Technical States.

5                   (2) QUALIFICATIONS.—Members of the Council  
6                   shall be appointed based on their demonstrated  
7                   knowledge and competence regarding surveying, car-  
8                   tography, remote sensing, geographic information  
9                   systems, or the technical aspects of preparing and  
10                  using flood insurance rate maps. In appointing  
11                  members under paragraph (1)(H), the Administrator  
12                  shall ensure that the membership of the Council has  
13                  a balance of Federal, State, local, and private mem-  
14                  bers, and includes an adequate number of represent-  
15                  atives from the States with coastline on the Gulf of  
16                  Mexico and other States containing areas identified  
17                  by the Administrator of the Federal Emergency  
18                  Management Agency as at high-risk for flooding or  
19                  special flood hazard areas.

20                  (c) DUTIES.—

21                  (1) NEW MAPPING STANDARDS.—Not later than  
22                  the expiration of the 12-month period beginning  
23                  upon the date of the enactment of this Act, the  
24                  Council shall develop and submit to the Adminis-  
25                  trator and the Congress proposed new mapping

1 standards for 100-year flood insurance rate maps  
2 used under the national flood insurance program  
3 under the National Flood Insurance Act of 1968. In  
4 developing such proposed standards the Council  
5 shall—

6 (A) ensure that the flood insurance rate  
7 maps reflect true risk, including graduated risk  
8 that better reflects the financial risk to each  
9 property; such reflection of risk should be at  
10 the smallest geographic level possible (but not  
11 necessarily property-by-property) to ensure that  
12 communities are mapped in a manner that  
13 takes into consideration different risk levels  
14 within the community;

15 (B) ensure the most efficient generation,  
16 display, and distribution of flood risk data,  
17 models, and maps where practicable through  
18 dynamic digital environments using spatial  
19 database technology and the Internet;

20 (C) ensure that flood insurance rate maps  
21 reflect current hydrologic and hydraulic data,  
22 current land use, and topography, incorporating  
23 the most current and accurate ground and  
24 bathymetric elevation data;

1           (D) determine the best ways to include in  
2 such flood insurance rate maps levees, decerti-  
3 fied levees, and areas located below dams, in-  
4 cluding determining a methodology for ensuring  
5 that decertified levees and other protections are  
6 included in flood insurance rate maps and their  
7 corresponding flood zones reflect the level of  
8 protection conferred;

9           (E) consider how to incorporate restored  
10 wetlands and other natural buffers into flood  
11 insurance rate maps, which may include wet-  
12 lands, groundwater recharge areas, erosion  
13 zones, meander belts, endangered species habi-  
14 tat, barrier islands and shoreline buffer fea-  
15 tures, riparian forests, and other features;

16           (F) consider whether to use vertical posi-  
17 tioning (as defined by the Administrator) for  
18 flood insurance rate maps;

19           (G) ensure that flood insurance rate maps  
20 differentiate between a property that is located  
21 in a flood zone and a structure located on such  
22 property that is not at the same risk level for  
23 flooding as such property due to the elevation  
24 of the structure;

1 (H) ensure that flood insurance rate maps  
2 take into consideration the best scientific data  
3 and potential future conditions (including pro-  
4 jections for sea level rise); and

5 (I) consider how to incorporate the new  
6 standards proposed pursuant to this paragraph  
7 in existing mapping efforts.

8 (2) ONGOING DUTIES.—The Council shall, on  
9 an ongoing basis, review the mapping protocols de-  
10 veloped pursuant to paragraph (1), and make rec-  
11 ommendations to the Administrator when the Coun-  
12 cil determines that mapping protocols should be al-  
13 tered.

14 (3) MEETINGS.—In carrying out its duties  
15 under this section, the Council shall consult with  
16 stakeholders through at least 4 public meetings an-  
17 nually, and shall seek input of all stakeholder inter-  
18 ests including State and local representatives, envi-  
19 ronmental and conservation organizations, insurance  
20 industry representatives, advocacy groups, planning  
21 organizations, and mapping organizations.

22 (d) PROHIBITION ON COMPENSATION.—Members of  
23 the Council shall receive no additional compensation by  
24 reason of their service on the Council.

1 (e) CHAIRPERSON.—The Administrator shall serve as  
2 the Chairperson of the Council.

3 (f) STAFF.—

4 (1) FEMA.—Upon the request of the Council,  
5 the Administrator may detail, on a nonreimbursable  
6 basis, personnel of the Federal Emergency Manage-  
7 ment Agency to assist the Council in carrying out its  
8 duties.

9 (2) OTHER FEDERAL AGENCIES.—Upon request  
10 of the Council, any other Federal agency that is a  
11 member of the Council may detail, on a non-reim-  
12 bursable basis, personnel to assist the Council in  
13 carrying out its duties.

14 (g) POWERS.—In carrying out this section, the Coun-  
15 cil may hold hearings, receive evidence and assistance, pro-  
16 vide information, and conduct research, as the Council  
17 considers appropriate.

18 (h) TERMINATION.—The Council shall terminate  
19 upon the expiration of the 5-year period beginning on the  
20 date of the enactment of this Act.

21 (i) MORATORIUM ON FLOOD MAP CHANGES.—

22 (1) MORATORIUM.—Except as provided in para-  
23 graph (2) and notwithstanding any other provision  
24 of this subtitle, the National Flood Insurance Act of  
25 1968, or the Flood Disaster Protection Act of 1973,

1 during the period beginning upon the date of the en-  
2 actment of this Act and ending upon the submission  
3 by the Council to the Administrator and the Con-  
4 gress of the proposed new mapping standards re-  
5 quired under subsection (e)(1), the Administrator  
6 may not make effective any new or updated rate  
7 maps for flood insurance coverage under the na-  
8 tional flood insurance program that were not in ef-  
9 fect for such program as of such date of enactment,  
10 or otherwise revise, update, or change the flood in-  
11 surance rate maps in effect for such program as of  
12 such date.

13 (2) LETTERS OF MAP CHANGE.—During the pe-  
14 riod described in paragraph (1), the Administrator  
15 may revise, update, and change the flood insurance  
16 rate maps in effect for the national flood insurance  
17 program only pursuant to a letter of map change  
18 (including a letter of map amendment, letter of map  
19 revision, and letter of map revision based on fill).

20 **SEC. 347. FEMA INCORPORATION OF NEW MAPPING PROTO-**  
21 **COLS.**

22 (a) NEW RATE MAPPING STANDARDS.—Not later  
23 than the expiration of the 6-month period beginning upon  
24 submission by the Technical Mapping Advisory Council  
25 under section 346 of the proposed new mapping standards

1 for flood insurance rate maps used under the national  
2 flood insurance program developed by the Council pursu-  
3 ant to section 346(c), the Administrator of the Federal  
4 Emergency Management Agency (in this section referred  
5 to as the “Administrator”) shall establish new standards  
6 for such rate maps based on such proposed new standards  
7 and the recommendations of the Council.

8 (b) REQUIREMENTS.—The new standards for flood  
9 insurance rate maps established by the Administrator pur-  
10 suant to subsection (a) shall—

11 (1) delineate and include in any such rate  
12 maps—

13 (A) all areas located within the 100-year  
14 flood plain; and

15 (B) areas subject to graduated and other  
16 risk levels, to the maximum extent possible;

17 (2) ensure that any such rate maps—

18 (A) include levees, including decertified lev-  
19 ees, and the level of protection they confer;

20 (B) reflect current land use and topog-  
21 raphy and incorporate the most current and ac-  
22 curate ground level data;

23 (C) take into consideration the impacts  
24 and use of fill and the flood risks associated  
25 with altered hydrology;



1           (D) differentiate between a property that  
2 is located in a flood zone and a structure lo-  
3 cated on such property that is not at the same  
4 risk level for flooding as such property due to  
5 the elevation of the structure;

6           (E) identify and incorporate natural fea-  
7 tures and their associated flood protection bene-  
8 fits into mapping and rates; and

9           (F) identify, analyze, and incorporate the  
10 impact of significant changes to building and  
11 development throughout any river or costal  
12 water system, including all tributaries, which  
13 may impact flooding in areas downstream; and

14         (3) provide that such rate maps are developed  
15 on a watershed basis.

16         (c) REPORT.—If, in establishing new standards for  
17 flood insurance rate maps pursuant to subsection (a) of  
18 this section, the Administrator does not implement all of  
19 the recommendations of the Council made under the pro-  
20 posed new mapping standards developed by the Council  
21 pursuant to section 346(c), upon establishment of the new  
22 standards the Administrator shall submit a report to the  
23 Committee on Financial Services of the House of Rep-  
24 resentatives and the Committee on Banking, Housing, and  
25 Urban Affairs of the Senate specifying which such rec-

1 ommendations were not adopted and explaining the rea-  
2 sons such recommendations were not adopted.

3 (d) IMPLEMENTATION.—The Administrator shall, not  
4 later than the expiration of the 6-month period beginning  
5 upon establishment of the new standards for flood insur-  
6 ance rate maps pursuant to subsection (a) of this section,  
7 commence use of the new standards and updating of flood  
8 insurance rate maps in accordance with the new stand-  
9 ards. Not later than the expiration of the 10-year period  
10 beginning upon the establishment of such new standards,  
11 the Administrator shall complete updating of all flood in-  
12 surance rate maps in accordance with the new standards,  
13 subject to the availability of sufficient amounts for such  
14 activities provided in appropriation Acts.

15 (e) TEMPORARY SUSPENSION OF MANDATORY PUR-  
16 CHASE REQUIREMENT FOR CERTAIN PROPERTIES.—

17 (1) SUBMISSION OF ELEVATION CERTIFI-  
18 CATE.—Subject to paragraphs (2) and (3) of this  
19 subsection, subsections (a), (b), and (e) of section  
20 102 of the Flood Disaster Protection Act of 1973  
21 (42 U.S.C. 4012a), and section 202(a) of such Act,  
22 shall not apply to a property located in an area des-  
23 ignated as having a special flood hazard if the owner  
24 of such property submits to the Administrator an  
25 elevation certificate for such property showing that

1 the lowest level of the primary residence on such  
2 property is at an elevation that is at least three feet  
3 higher than the elevation of the 100-year flood plain.

4 (2) REVIEW OF CERTIFICATE.—The Adminis-  
5 trator shall accept as conclusive each elevation cer-  
6 tificate submitted under paragraph (1) unless the  
7 Administrator conducts a subsequent elevation sur-  
8 vey and determines that the lowest level of the pri-  
9 mary residence on the property in question is not at  
10 an elevation that is at least three feet higher than  
11 the elevation of the 100-year flood plain. The Ad-  
12 ministrator shall provide any such subsequent ele-  
13 vation survey to the owner of such property.

14 (3) DETERMINATIONS FOR PROPERTIES ON  
15 BORDERS OF SPECIAL FLOOD HAZARD AREAS.—

16 (A) EXPEDITED DETERMINATION.—In the  
17 case of any survey for a property submitted to  
18 the Administrator pursuant to paragraph (1)  
19 showing that a portion of the property is lo-  
20 cated within an area having special flood haz-  
21 ards and that a structure located on the prop-  
22 erty is not located within such area having spe-  
23 cial flood hazards, the Administrator shall expe-  
24 ditiously process any request made by an owner  
25 of the property for a determination pursuant to

1 paragraph (2) or a determination of whether  
2 the structure is located within the area having  
3 special flood hazards.

4 (B) PROHIBITION OF FEE.—If the Admin-  
5 istrator determines pursuant to subparagraph  
6 (A) that the structure on the property is not lo-  
7 cated within the area having special flood haz-  
8 ards, the Administrator shall not charge a fee  
9 for reviewing the flood hazard data and shall  
10 not require the owner to provide any additional  
11 elevation data.

12 (C) SIMPLIFICATION OF REVIEW PROC-  
13 ESS.—The Administrator shall collaborate with  
14 private sector flood insurers to simplify the re-  
15 view process for properties described in sub-  
16 paragraph (A) and to ensure that the review  
17 process provides for accurate determinations.

18 (4) TERMINATION OF AUTHORITY.—This sub-  
19 section shall cease to apply to a property on the date  
20 on which the Administrator updates the flood insur-  
21 ance rate map that applies to such property in ac-  
22 cordance with the requirements of subsection (d).

1 **SEC. 348. TREATMENT OF LEVEES.**

2 Section 1360 of the National Flood Insurance Act of  
3 1968 (42 U.S.C. 4101) is amended by adding at the end  
4 the following new subsection:

5 “(k) TREATMENT OF LEVEES.—The Administrator  
6 may not issue flood insurance maps, or make effective up-  
7 dated flood insurance maps, that omit or disregard the  
8 actual protection afforded by an existing levee, floodwall,  
9 pump or other flood protection feature, regardless of the  
10 accreditation status of such feature.”.

11 **SEC. 349. PRIVATIZATION INITIATIVES.**

12 (a) FEMA AND GAO REPORTS.—Not later than the  
13 expiration of the 18-month period beginning on the date  
14 of the enactment of this Act, the Administrator of the  
15 Federal Emergency Management Agency and the Comp-  
16 troller General of the United States shall each conduct a  
17 separate study to assess a broad range of options, meth-  
18 ods, and strategies for privatizing the national flood insur-  
19 ance program and shall each submit a report to the Com-  
20 mittee on Financial Services of the House of Representa-  
21 tives and the Committee on Banking, Housing, and Urban  
22 Affairs of the Senate with recommendations for the best  
23 manner to accomplish such privatization.

24 (b) PRIVATE RISK-MANAGEMENT INITIATIVES.—

25 (1) AUTHORITY.—The Administrator of the  
26 Federal Emergency Management Agency may carry

1 out such private risk-management initiatives under  
2 the national flood insurance program as the Admin-  
3 istrator considers appropriate to determine the ca-  
4 pacity of private insurers, reinsurers, and financial  
5 markets to assist communities, on a voluntary basis  
6 only, in managing the full range of financial risks  
7 associated with flooding.

8 (2) ASSESSMENT.—Not later than the expira-  
9 tion of the 12-month period beginning on the date  
10 of the enactment of this Act, the Administrator shall  
11 assess the capacity of the private reinsurance, cap-  
12 ital, and financial markets by seeking proposals to  
13 assume a portion of the program’s insurance risk  
14 and submit to the Congress a report describing the  
15 response to such request for proposals and the re-  
16 sults of such assessment.

17 (3) PROTOCOL FOR RELEASE OF DATA.—The  
18 Administrator shall develop a protocol to provide for  
19 the release of data sufficient to conduct the assess-  
20 ment required under paragraph (2).

21 (c) REINSURANCE.—The National Flood Insurance  
22 Act of 1968 is amended—

23 (1) in section 1331(a)(2) (42 U.S.C.  
24 4051(a)(2)), by inserting “, including as reinsurance

1 of insurance coverage provided by the flood insur-  
2 ance program” before “, on such terms”;

3 (2) in section 1332(c)(2) (42 U.S.C.  
4 4052(c)(2)), by inserting “or reinsurance” after  
5 “flood insurance coverage”;

6 (3) in section 1335(a) (42 U.S.C. 4055(a))—

7 (A) by inserting “(1)” after “(a)”; and

8 (B) by adding at the end the following new  
9 paragraph:

10 “(2) The Administrator is authorized to secure rein-  
11 surance coverage of coverage provided by the flood insur-  
12 ance program from private market insurance, reinsurance,  
13 and capital market sources at rates and on terms deter-  
14 mined by the Administrator to be reasonable and appro-  
15 priate in an amount sufficient to maintain the ability of  
16 the program to pay claims and that minimizes the likeli-  
17 hood that the program will utilize the borrowing authority  
18 provided under section 1309.”;

19 (4) in section 1346(a) (12 U.S.C. 4082(a))—

20 (A) in the matter preceding paragraph (1),  
21 by inserting “, or for purposes of securing rein-  
22 surance of insurance coverage provided by the  
23 program,” before “of any or all of”;

24 (B) in paragraph (1)—

1 (i) by striking “estimating” and in-  
2 serting “Estimating”; and

3 (ii) by striking the semicolon at the  
4 end and inserting a period;

5 (C) in paragraph (2)—

6 (i) by striking “receiving” and insert-  
7 ing “Receiving”; and

8 (ii) by striking the semicolon at the  
9 end and inserting a period;

10 (D) in paragraph (3)—

11 (i) by striking “making” and inserting  
12 “Making”; and

13 (ii) by striking “; and” and inserting  
14 a period;

15 (E) in paragraph (4)—

16 (i) by striking “otherwise” and insert-  
17 ing “Otherwise”; and

18 (ii) by redesignating such paragraph  
19 as paragraph (5); and

20 (F) by inserting after paragraph (3) the  
21 following new paragraph:

22 “(4) Placing reinsurance coverage on insurance  
23 provided by such program.”; and

24 (5) in section 1370(a)(3) (42 U.S.C.  
25 4121(a)(3)), by inserting before the semicolon at the



1 end the following: “, is subject to the reporting re-  
2 quirements of the Securities Exchange Act of 1934,  
3 pursuant to section 13(a) or 15(d) of such Act (15  
4 U.S.C. 78m(a), 78o(d)), or is authorized by the Ad-  
5 ministrator to assume reinsurance on risks insured  
6 by the flood insurance program”.

7 (d) ASSESSMENT OF CLAIMS-PAYING ABILITY.—

8 (1) ASSESSMENT.—Not later than September  
9 30 of each year, the Administrator of the Federal  
10 Emergency Management Agency shall conduct an  
11 assessment of the claims-paying ability of the na-  
12 tional flood insurance program, including the pro-  
13 gram’s utilization of private sector reinsurance and  
14 reinsurance equivalents, with and without reliance  
15 on borrowing authority under section 1309 of the  
16 National Flood Insurance Act of 1968 (42 U.S.C.  
17 4016). In conducting the assessment, the Adminis-  
18 trator shall take into consideration regional con-  
19 centrations of coverage written by the program, peak  
20 flood zones, and relevant mitigation measures.

21 (2) REPORT.—The Administrator shall submit  
22 a report to the Congress of the results of each such  
23 assessment, and make such report available to the  
24 public, not later than 30 days after completion of  
25 the assessment.

1 **SEC. 350. FEMA ANNUAL REPORT ON INSURANCE PRO-**  
2 **GRAM.**

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 “REPORT  
6 TO THE PRESIDENT” and inserting “ANNUAL RE-  
7 PORT TO CONGRESS”;

8 (2) in subsection (a)—

9 (A) by striking “biennially”;

10 (B) by striking “the President for submis-  
11 sion to”; and

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

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

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

18 “(c) **FINANCIAL STATUS OF PROGRAM.**—The report  
19 under this section for each year shall include information  
20 regarding the financial status of the national flood insur-  
21 ance program under this title, including a description of  
22 the financial status of the National Flood Insurance Fund  
23 and current and projected levels of claims, premium re-  
24 cepts, expenses, and borrowing under the program.”.

1 **SEC. 351. MITIGATION ASSISTANCE.**

2 (a) MITIGATION ASSISTANCE GRANTS.—Section  
3 1366 of the National Flood Insurance Act of 1968 (42  
4 U.S.C. 4104c) is amended—

5 (1) in subsection (a), by striking the last sen-  
6 tence and inserting the following: “Such financial  
7 assistance shall be made available—

8 “(1) to States and communities in the form of  
9 grants under this section for carrying out mitigation  
10 activities;

11 “(2) to States and communities in the form of  
12 grants under this section for carrying out mitigation  
13 activities that reduce flood damage to severe repet-  
14 itive loss structures; and

15 “(3) to property owners in the form of direct  
16 grants under this section for carrying out mitigation  
17 activities that reduce flood damage to individual  
18 structures for which 2 or more claim payments for  
19 losses have been made under flood insurance cov-  
20 erage under this title if the Administrator, after con-  
21 sultation with the State and community, determines  
22 that neither the State nor community in which such  
23 a structure is located has the capacity to manage  
24 such grants.”.

25 (2) by striking subsection (b);

26 (3) in subsection (c)—

1 (A) by striking “flood risk” and inserting  
2 “multi-hazard”;

3 (B) by striking “provides protection  
4 against” and inserting “examines reduction of”;  
5 and

6 (C) by redesignating such subsection as  
7 subsection (b);

8 (4) by striking subsection (d);

9 (5) in subsection (e)—

10 (A) in paragraph (1), by striking the para-  
11 graph designation and all that follows through  
12 the end of the first sentence and inserting the  
13 following:

14 “(1) REQUIREMENT OF CONSISTENCY WITH AP-  
15 PROVED MITIGATION PLAN.—Amounts provided  
16 under this section may be used only for mitigation  
17 activities that are consistent with mitigation plans  
18 that are approved by the Administrator and identi-  
19 fied under subparagraph (4).”;

20 (B) by striking paragraphs (2), (3), and  
21 (4) and inserting the following new paragraphs:

22 “(2) REQUIREMENTS OF TECHNICAL FEASI-  
23 BILITY, COST EFFECTIVENESS, AND INTEREST OF  
24 NFIF.—The Administrator may approve only mitiga-  
25 tion activities that the Administrator determines are

1 technically feasible and cost-effective and in the in-  
2 terest of, and represent savings to, the National  
3 Flood Insurance Fund. In making such determina-  
4 tions, the Administrator shall take into consideration  
5 recognized benefits that are difficult to quantify.

6 “(3) PRIORITY FOR MITIGATION ASSISTANCE.—

7 In providing grants under this section for mitigation  
8 activities, the Administrator shall give priority for  
9 funding to activities that the Administrator deter-  
10 mines will result in the greatest savings to the Na-  
11 tional Flood Insurance Fund, including activities  
12 for—

13 “(A) severe repetitive loss structures;

14 “(B) repetitive loss structures; and

15 “(C) other subsets of structures as the Ad-  
16 ministrator may establish.”;

17 (C) in paragraph (5)—

18 (i) by striking all of the matter that  
19 precedes subparagraph (A) and inserting  
20 the following:

21 “(4) ELIGIBLE ACTIVITIES.—Eligible activities  
22 may include—”;

23 (ii) by striking subparagraphs (E) and  
24 (H);

1 (iii) by redesignating subparagraphs  
2 (D), (F), and (G) as subparagraphs (E),  
3 (G), and (H);

4 (iv) by inserting after subparagraph  
5 (C) the following new subparagraph:

6 “(D) elevation, relocation, and  
7 floodproofing of utilities (including equipment  
8 that serve structures);”;

9 (v) by inserting after subparagraph  
10 (E), as so redesignated by clause (iii) of  
11 this subparagraph, the following new sub-  
12 paragraph:

13 “(F) the development or update of State,  
14 local, or Indian tribal mitigation plans which  
15 meet the planning criteria established by the  
16 Administrator, except that the amount from  
17 grants under this section that may be used  
18 under this subparagraph may not exceed  
19 \$50,000 for any mitigation plan of a State or  
20 \$25,000 for any mitigation plan of a local gov-  
21 ernment or Indian tribe;”;

22 (vi) in subparagraph (H); as so redesi-  
23 gnated by clause (iii) of this subpara-  
24 graph, by striking “and” at the end; and

1 (vii) by adding at the end the fol-  
2 lowing new subparagraphs:

3 “(I) other mitigation activities not de-  
4 scribed in subparagraphs (A) through (G) or  
5 the regulations issued under subparagraph (H),  
6 that are described in the mitigation plan of a  
7 State, community, or Indian tribe; and

8 “(J) personnel costs for State staff that  
9 provide technical assistance to communities to  
10 identify eligible activities, to develop grant ap-  
11 plications, and to implement grants awarded  
12 under this section, not to exceed \$50,000 per  
13 State in any Federal fiscal year, so long as the  
14 State applied for and was awarded at least  
15 \$1,000,000 in grants available under this sec-  
16 tion in the prior Federal fiscal year; the re-  
17 quirements of subsections (d)(1) and (d)(2)  
18 shall not apply to the activity under this sub-  
19 paragraph.”;

20 (D) by adding at the end the following new  
21 paragraph:

22 “(6) ELIGIBILITY OF DEMOLITION AND RE-  
23 BUILDING OF PROPERTIES.—The Administrator  
24 shall consider as an eligible activity the demolition  
25 and rebuilding of properties to at least base flood

1 elevation or greater, if required by the Administrator  
2 or if required by any State regulation or local ordi-  
3 nance, and in accordance with criteria established by  
4 the Administrator.”; and

5 (E) by redesignating such subsection as  
6 subsection (c);

7 (6) by striking subsections (f), (g), and (h) and  
8 inserting the following new subsection:

9 “(d) MATCHING REQUIREMENT.—The Administrator  
10 may provide grants for eligible mitigation activities as fol-  
11 lows:

12 “(1) SEVERE REPETITIVE LOSS STRUCTURES.—  
13 In the case of mitigation activities to severe repet-  
14 itive loss structures, in an amount up to 100 percent  
15 of all eligible costs.

16 “(2) REPETITIVE LOSS STRUCTURES.—In the  
17 case of mitigation activities to repetitive loss struc-  
18 tures, in an amount up to 90 percent of all eligible  
19 costs.

20 “(3) OTHER MITIGATION ACTIVITIES.—In the  
21 case of all other mitigation activities, in an amount  
22 up to 75 percent of all eligible costs.”;

23 (7) in subsection (i)—

24 (A) in paragraph (2)—



1 (i) by striking “certified under sub-  
2 section (g)” and inserting “required under  
3 subsection (d)”;

4 (ii) by striking “3 times the amount”  
5 and inserting “the amount”;

6 (B) by redesignating such subsection as  
7 subsection (e);

8 (8) in subsection (j)—

9 (A) by striking “Riegle Community Devel-  
10 opment and Regulatory Improvement Act of  
11 1994” and inserting “Flood Insurance Reform  
12 Act of 2012”;

13 (B) by redesignating such subsection as  
14 subsection (f); and

15 (9) by striking subsections (k) and (m) and in-  
16 serting the following new subsections:

17 “(g) FAILURE TO MAKE GRANT AWARD WITHIN 5  
18 YEARS.—For any application for a grant under this sec-  
19 tion for which the Administrator fails to make a grant  
20 award within 5 years of the date of application, the grant  
21 application shall be considered to be denied and any fund-  
22 ing amounts allocated for such grant applications shall re-  
23 main in the National Flood Mitigation Fund under section  
24 1367 of this title and shall be made available for grants  
25 under this section.

1       “(h) LIMITATION ON FUNDING FOR MITIGATION AC-  
2 TIVITIES FOR SEVERE REPETITIVE LOSS STRUCTURES.—

3 The amount used pursuant to section 1310(a)(8) in any  
4 fiscal year may not exceed \$40,000,000 and shall remain  
5 available until expended.

6       “(i) DEFINITIONS.—For purposes of this section, the  
7 following definitions shall apply:

8           “(1) COMMUNITY.—The term ‘community’  
9 means—

10                   “(A) a political subdivision that—

11                           “(i) has zoning and building code ju-  
12                           risdiction over a particular area having  
13                           special flood hazards, and

14                           “(ii) is participating in the national  
15                           flood insurance program; or

16                   “(B) a political subdivision of a State, or  
17                   other authority, that is designated by political  
18                   subdivisions, all of which meet the requirements  
19                   of subparagraph (A), to administer grants for  
20                   mitigation activities for such political subdivi-  
21                   sions.

22           “(2) REPETITIVE LOSS STRUCTURE.—The term  
23           ‘repetitive loss structure’ has the meaning given  
24           such term in section 1370.

1           “(3) SEVERE REPETITIVE LOSS STRUCTURE.—

2           The term ‘severe repetitive loss structure’ means a  
3           structure that—

4                   “(A) is covered under a contract for flood  
5           insurance made available under this title; and

6                   “(B) has incurred flood-related damage—

7                           “(i) for which 4 or more separate  
8           claims payments have been made under  
9           flood insurance coverage under this title,  
10          with the amount of each such claim ex-  
11          ceeding \$15,000, and with the cumulative  
12          amount of such claims payments exceeding  
13          \$60,000; or

14                           “(ii) for which at least 2 separate  
15          claims payments have been made under  
16          such coverage, with the cumulative amount  
17          of such claims exceeding the value of the  
18          insured structure.”.

19           (b) ELIMINATION OF GRANTS PROGRAM FOR REPET-  
20          ITIVE INSURANCE CLAIMS PROPERTIES.—Chapter I of  
21          the National Flood Insurance Act of 1968 is amended by  
22          striking section 1323 (42 U.S.C. 4030).

23           (c) ELIMINATION OF PILOT PROGRAM FOR MITIGA-  
24          TION OF SEVERE REPETITIVE LOSS PROPERTIES.—Chap-

1 ter III of the National Flood Insurance Act of 1968 is  
2 amended by striking section 1361A (42 U.S.C. 4102a).

3 (d) NATIONAL FLOOD INSURANCE FUND.—Section  
4 1310(a) of the National Flood Insurance Act of 1968 (42  
5 U.S.C. 4017(a)) is amended—

6 (1) in paragraph (7), by inserting “and” after  
7 the semicolon; and

8 (2) by striking paragraphs (8) and (9).

9 (e) NATIONAL FLOOD MITIGATION FUND.—Section  
10 1367 of the National Flood Insurance Act of 1968 (42  
11 U.S.C. 4104d) is amended—

12 (1) in subsection (b)—

13 (A) by striking paragraph (1) and insert-  
14 ing the following new paragraph:

15 “(1) in each fiscal year, from the National  
16 Flood Insurance Fund in amounts not exceeding  
17 \$90,000,000 to remain available until expended, of  
18 which—

19 “(A) not more than \$40,000,000 shall be  
20 available pursuant to subsection (a) of this sec-  
21 tion only for assistance described in section  
22 1366(a)(1);

23 “(B) not more than \$40,000,000 shall be  
24 available pursuant to subsection (a) of this sec-

1           tion only for assistance described in section  
2           1366(a)(2); and

3           “(C) not more than \$10,000,000 shall be  
4           available pursuant to subsection (a) of this sec-  
5           tion only for assistance described in section  
6           1366(a)(3).”.

7           (B) in paragraph (3), by striking “section  
8           1366(i)” and inserting “section 1366(e”;

9           (2) in subsection (c), by striking “sections 1366  
10          and 1323” and inserting “section 1366”;

11          (3) by redesignating subsections (d) and (e) as  
12          subsections (f) and (g), respectively; and

13          (4) by inserting after subsection (c) the fol-  
14          lowing new subsections:

15          “(d) PROHIBITION ON OFFSETTING COLLECTIONS.—  
16          Notwithstanding any other provision of this title, amounts  
17          made available pursuant to this section shall not be sub-  
18          ject to offsetting collections through premium rates for  
19          flood insurance coverage under this title.

20          “(e) CONTINUED AVAILABILITY AND REALLOCA-  
21          TION.—Any amounts made available pursuant to subpara-  
22          graph (A), (B), or (C) of subsection (b)(1) that are not  
23          used in any fiscal year shall continue to be available for  
24          the purposes specified in such subparagraph of subsection  
25          (b)(1) pursuant to which such amounts were made avail-

1 able, unless the Administrator determines that realloca-  
2 tion of such unused amounts to meet demonstrated need  
3 for other mitigation activities under section 1366 is in the  
4 best interest of the National Flood Insurance Fund.”.

5 (f) INCREASED COST OF COMPLIANCE COVERAGE.—  
6 Section 1304(b)(4) of the National Flood Insurance Act  
7 of 1968 (42 U.S.C. 4011(b)(4)) is amended—

8 (1) by striking subparagraph (B); and

9 (2) by redesignating subparagraphs (C), (D),  
10 and (E) as subparagraphs (B), (C), and (D), respec-  
11 tively.

12 **SEC. 352. NOTIFICATION TO HOMEOWNERS REGARDING**  
13 **MANDATORY PURCHASE REQUIREMENT AP-**  
14 **PLICABILITY AND RATE PHASE-INS.**

15 Section 201 of the Flood Disaster Protection Act of  
16 1973 (42 U.S.C. 4105) is amended by adding at the end  
17 the following new subsection:

18 “(f) ANNUAL NOTIFICATION.—The Administrator, in  
19 consultation with affected communities, shall establish and  
20 carry out a plan to notify residents of areas having special  
21 flood hazards, on an annual basis—

22 “(1) that they reside in such an area;

23 “(2) of the geographical boundaries of such  
24 area;

1           “(3) of whether section 1308(g) of the National  
2 Flood Insurance Act of 1968 applies to properties  
3 within such area;

4           “(4) of the provisions of section 102 requiring  
5 purchase of flood insurance coverage for properties  
6 located in such an area, including the date on which  
7 such provisions apply with respect to such area, tak-  
8 ing into consideration section 102(i); and

9           “(5) of a general estimate of what similar  
10 homeowners in similar areas typically pay for flood  
11 insurance coverage, taking into consideration section  
12 1308(g) of the National Flood Insurance Act of  
13 1968.”.

14 **SEC. 353. NOTIFICATION TO MEMBERS OF CONGRESS OF**  
15 **FLOOD MAP REVISIONS AND UPDATES.**

16           Section 1360 of the National Flood Insurance Act of  
17 1968 (42 U.S.C. 4101), as amended by the preceding pro-  
18 visions of this subtitle, is further amended by adding at  
19 the end the following new subsection:

20           “(1) NOTIFICATION TO MEMBERS OF CONGRESS OF  
21 MAP MODERNIZATION.—Upon any revision or update of  
22 any floodplain area or flood-risk zone pursuant to sub-  
23 section (f), any decision pursuant to subsection (f)(1) that  
24 such revision or update is necessary, any issuance of pre-  
25 liminary maps for such revision or updating, or any other

1 significant action relating to any such revision or update,  
2 the Administrator shall notify the Senators for each State  
3 affected, and each Member of the House of Representa-  
4 tives for each congressional district affected, by such revi-  
5 sion or update in writing of the action taken.”.

6 **SEC. 354. NOTIFICATION AND APPEAL OF MAP CHANGES;**  
7 **NOTIFICATION TO COMMUNITIES OF ESTAB-**  
8 **LISHMENT OF FLOOD ELEVATIONS.**

9 Section 1363 of the National Flood Insurance Act of  
10 1968 (42 U.S.C. 4104) is amended by striking the section  
11 designation and all that follows through the end of sub-  
12 section (a) and inserting the following:

13 “SEC. 1363. (a) In establishing projected flood ele-  
14 vations for land use purposes with respect to any commu-  
15 nity pursuant to section 1361, the Administrator shall  
16 first propose such determinations—

17 “(1) by providing the chief executive officer of  
18 each community affected by the proposed elevations,  
19 by certified mail, with a return receipt requested,  
20 notice of the elevations, including a copy of the maps  
21 for the elevations for such community and a state-  
22 ment explaining the process under this section to ap-  
23 peal for changes in such elevations;

24 “(2) by causing notice of such elevations to be  
25 published in the Federal Register, which notice shall



1 include information sufficient to identify the ele-  
2 vation determinations and the communities affected,  
3 information explaining how to obtain copies of the  
4 elevations, and a statement explaining the process  
5 under this section to appeal for changes in the ele-  
6 vations;

7 “(3) by publishing in a prominent local news-  
8 paper the elevations, a description of the appeals  
9 process for flood determinations, and the mailing ad-  
10 dress and telephone number of a person the owner  
11 may contact for more information or to initiate an  
12 appeal;

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

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

22 “(B) the process under this section to ap-  
23 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; and”.

4 **SEC. 355. NOTIFICATION TO TENANTS OF AVAILABILITY OF**  
5 **CONTENTS INSURANCE.**

6           The National Flood Insurance Act of 1968 is amend-  
7           ed by inserting after section 1308 (42 U.S.C. 4015) the  
8           following new section:

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

11           “(a) IN GENERAL.—The Administrator shall, upon  
12           entering into a contract for flood insurance coverage under  
13           this title for any property—

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

16                   “(2) require the insured to provide a copy of  
17                   the notice, or otherwise provide notification of the  
18                   information under subsection (b) in the manner that  
19                   the manager or landlord deems most appropriate, to  
20                   each such tenant and to each new tenant upon com-  
21                   mencement of such a tenancy.

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

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

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

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

10           “(4) of where to obtain information regarding  
11           how to obtain such coverage, including a telephone  
12           number, mailing address, and Internet site of the  
13           Administrator where such information is available.”.

14 **SEC. 356. NOTIFICATION TO POLICY HOLDERS REGARDING**  
15 **DIRECT MANAGEMENT OF POLICY BY FEMA.**

16           Part C of chapter II of the National Flood Insurance  
17 Act of 1968 (42 U.S.C. 4081 et seq.) is amended by add-  
18 ing at the end the following new section:

19 **“SEC. 1349. NOTIFICATION TO POLICY HOLDERS REGARD-**  
20 **ING DIRECT MANAGEMENT OF POLICY BY**  
21 **FEMA.**

22           “(a) NOTIFICATION.—Not later than 60 days before  
23 the date on which a transferred flood insurance policy ex-  
24 pires, and annually thereafter until such time as the Fed-  
25 eral Emergency Management Agency is no longer directly

1 administering such policy, the Administrator shall notify  
2 the holder of such policy that—

3 “(1) the Federal Emergency Management  
4 Agency is directly administering the policy;

5 “(2) such holder may purchase flood insurance  
6 that is directly administered by an insurance com-  
7 pany; and

8 “(3) purchasing flood insurance offered under  
9 the National Flood Insurance Program that is di-  
10 rectly administered by an insurance company will  
11 not alter the coverage provided or the premiums  
12 charged to such holder that otherwise would be pro-  
13 vided or charged if the policy was directly adminis-  
14 tered by the Federal Emergency Management Agen-  
15 cy.

16 “(b) DEFINITION.—In this section, the term ‘trans-  
17 ferred flood insurance policy’ means a flood insurance pol-  
18 icy that—

19 “(1) was directly administered by an insurance  
20 company at the time the policy was originally pur-  
21 chased by the policy holder; and

22 “(2) at the time of renewal of the policy, direct  
23 administration of the policy was or will be trans-  
24 ferred to the Federal Emergency Management Agen-  
25 cy.”.

1 **SEC. 357. NOTICE OF AVAILABILITY OF FLOOD INSURANCE**  
2 **AND ESCROW IN RESPA GOOD FAITH ESTI-**  
3 **MATE.**

4 Subsection (c) of section 5 of the Real Estate Settle-  
5 ment Procedures Act of 1974 (12 U.S.C. 2604(c)) is  
6 amended by adding at the end the following new sentence:  
7 “Each such good faith estimate shall include the following  
8 conspicuous statements and information: (1) that flood in-  
9 surance coverage for residential real estate is generally  
10 available under the national flood insurance program  
11 whether or not the real estate is located in an area having  
12 special flood hazards and that, to obtain such coverage,  
13 a home owner or purchaser should contact the national  
14 flood insurance program; (2) a telephone number and a  
15 location on the Internet by which a home owner or pur-  
16 chaser can contact the national flood insurance program;  
17 and (3) that the escrowing of flood insurance payments  
18 is required for many loans under section 102(d) of the  
19 Flood Disaster Protection Act of 1973, and may be a con-  
20 venient and available option with respect to other loans.”.

21 **SEC. 358. REIMBURSEMENT FOR COSTS INCURRED BY**  
22 **HOMEOWNERS AND COMMUNITIES OBTAIN-**  
23 **ING LETTERS OF MAP AMENDMENT OR REVI-**  
24 **SION.**

25 (a) IN GENERAL.—Section 1360 of the National  
26 Flood Insurance Act of 1968 (42 U.S.C. 4101), as amend-

1 ed by the preceding provisions of this subtitle, is further  
2 amended by adding at the end the following new sub-  
3 section:

4 “(m) REIMBURSEMENT.—

5 “(1) REQUIREMENT UPON BONA FIDE  
6 ERROR.—If an owner of any property located in an  
7 area described in section 102(i)(3) of the Flood Dis-  
8 aster Protection Act of 1973, or a community in  
9 which such a property is located, obtains a letter of  
10 map amendment, or a letter of map revision, due to  
11 a bona fide error on the part of the Administrator  
12 of the Federal Emergency Management Agency, the  
13 Administrator shall reimburse such owner, or such  
14 entity or jurisdiction acting on such owner’s behalf,  
15 or such community, as applicable, for any reasonable  
16 costs incurred in obtaining such letter.

17 “(2) REASONABLE COSTS.—The Administrator  
18 shall, by regulation or notice, determine a reasonable  
19 amount of costs to be reimbursed under paragraph  
20 (1), except that such costs shall not include legal or  
21 attorneys fees. In determining the reasonableness of  
22 costs, the Administrator shall only consider the ac-  
23 tual costs to the owner or community, as applicable,  
24 of utilizing the services of an engineer, surveyor, or  
25 similar services.”.

1 (b) REGULATIONS.—Not later than 90 days after the  
2 date of the enactment of this Act, the Administrator of  
3 the Federal Emergency Management Agency shall issue  
4 the regulations or notice required under section  
5 1360(m)(2) of the National Flood Insurance Act of 1968,  
6 as added by the amendment made by subsection (a) of  
7 this section.

8 **SEC. 359. ENHANCED COMMUNICATION WITH CERTAIN**  
9 **COMMUNITIES DURING MAP UPDATING**  
10 **PROCESS.**

11 Section 1360 of the National Flood Insurance Act of  
12 1968 (42 U.S.C. 4101), as amended by the preceding pro-  
13 visions of this subtitle, is further amended by adding at  
14 the end the following new subsection:

15 “(n) ENHANCED COMMUNICATION WITH CERTAIN  
16 COMMUNITIES DURING MAP UPDATING PROCESS.—In  
17 updating flood insurance maps under this section, the Ad-  
18 ministrator shall communicate with communities located  
19 in areas where flood insurance rate maps have not been  
20 updated in 20 years or more and the appropriate State  
21 emergency agencies to resolve outstanding issues, provide  
22 technical assistance, and disseminate all necessary infor-  
23 mation to reduce the prevalence of outdated maps in flood-  
24 prone areas.”.

1 **SEC. 360. NOTIFICATION TO RESIDENTS NEWLY INCLUDED**  
2 **IN FLOOD HAZARD AREAS.**

3 Section 1360 of the National Flood Insurance Act of  
4 1968 (42 U.S.C. 4101), as amended by the preceding pro-  
5 visions of this subtitle, is further amended by adding at  
6 the end the following new subsection:

7 “(o) NOTIFICATION TO RESIDENTS NEWLY IN-  
8 CLUDED IN FLOOD HAZARD AREA.—In revising or updat-  
9 ing any areas having special flood hazards, the Adminis-  
10 trator shall provide to each owner of a property to be  
11 newly included in such a special flood hazard area, at the  
12 time of issuance of such proposed revised or updated flood  
13 insurance maps, a copy of the proposed revised or updated  
14 flood insurance maps together with information regarding  
15 the appeals process under section 1363 (42 U.S.C.  
16 4104).”.

17 **SEC. 361. TREATMENT OF SWIMMING POOL ENCLOSURES**  
18 **OUTSIDE OF HURRICANE SEASON.**

19 Chapter I of the National Flood Insurance Act of  
20 1968 (42 U.S.C. 4001 et seq.) is amended by adding at  
21 the end the following new section:

22 **“SEC. 1325. TREATMENT OF SWIMMING POOL ENCLOSURES**  
23 **OUTSIDE OF HURRICANE SEASON.**

24 “In the case of any property that is otherwise in com-  
25 pliance with the coverage and building requirements of the  
26 national flood insurance program, the presence of an en-



1 closed swimming pool located at ground level or in the  
2 space below the lowest floor of a building after November  
3 30 and before June 1 of any year shall have no effect on  
4 the terms of coverage or the ability to receive coverage  
5 for such building under the national flood insurance pro-  
6 gram established pursuant to this title, if the pool is en-  
7 closed with non-supporting breakaway walls.”.

8 **SEC. 362. INFORMATION REGARDING MULTIPLE PERILS**  
9 **CLAIMS.**

10 Section 1345 of the National Flood Insurance Act of  
11 1968 (42 U.S.C. 4081) is amended by adding at the end  
12 the following new subsection:

13 “(d) INFORMATION REGARDING MULTIPLE PERILS  
14 CLAIMS.—

15 “(1) IN GENERAL.—Subject to paragraph (2),  
16 if an insured having flood insurance coverage under  
17 a policy issued under the program under this title by  
18 the Administrator or a company, insurer, or entity  
19 offering flood insurance coverage under such pro-  
20 gram (in this subsection referred to as a ‘partici-  
21 pating company’) has wind or other homeowners  
22 coverage from any company, insurer, or other entity  
23 covering property covered by such flood insurance, in  
24 the case of damage to such property that may have  
25 been caused by flood or by wind, the Administrator

1 and the participating company, upon the request of  
2 the insured, shall provide to the insured, within 30  
3 days of such request—

4 “(A) a copy of the estimate of structure  
5 damage;

6 “(B) proofs of loss;

7 “(C) any expert or engineering reports or  
8 documents commissioned by or relied upon by  
9 the Administrator or participating company in  
10 determining whether the damage was caused by  
11 flood or any other peril; and

12 “(D) the Administrator’s or the partici-  
13 pating company’s final determination on the  
14 claim.

15 “(2) TIMING.—Paragraph (1) shall apply only  
16 with respect to a request described in such para-  
17 graph made by an insured after the Administrator  
18 or the participating company, or both, as applicable,  
19 have issued a final decision on the flood claim in-  
20 volved and resolution of all appeals with respect to  
21 such claim.”.

1 **SEC. 363. FEMA AUTHORITY TO REJECT TRANSFER OF**  
2 **POLICIES.**

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

6 “(e) FEMA AUTHORITY TO REJECT TRANSFER OF  
7 POLICIES.—Notwithstanding any other provision of this  
8 Act, the Administrator may, at the discretion of the Ad-  
9 ministrator, refuse to accept the transfer of the adminis-  
10 tration of policies for coverage under the flood insurance  
11 program under this title that are written and administered  
12 by any insurance company or other insurer, or any insur-  
13 ance agent or broker.”.

14 **SEC. 364. APPEALS.**

15 (a) TELEVISION AND RADIO ANNOUNCEMENT.—Sec-  
16 tion 1363 of the National Flood Insurance Act of 1968  
17 (42 U.S.C. 4104), as amended by the preceding provisions  
18 of this subtitle, is further amended—

19 (1) in subsection (a), by adding at the end the  
20 following new paragraph:

21 “(5) by notifying a local television and radio  
22 station,”; and

23 (2) in the first sentence of subsection (b), by in-  
24 serting before the period at the end the following:

25 “and shall notify a local television and radio station  
26 at least once during the same 10-day period”.

1 (b) EXTENSION OF APPEALS PERIOD.—Subsection  
2 (b) of section 1363 of the National Flood Insurance Act  
3 of 1968 (42 U.S.C. 4104(b)) is amended—

4 (1) by striking “(b) The Director” and insert-  
5 ing “(b)(1) The Administrator”; and

6 (2) by adding at the end the following new  
7 paragraph:

8 “(2) The Administrator shall grant an extension of  
9 the 90-day period for appeals referred to in paragraph (1)  
10 for 90 additional days if an affected community certifies  
11 to the Administrator, after the expiration of at least 60  
12 days of such period, that the community—

13 “(A) believes there are property owners or les-  
14 sees in the community who are unaware of such pe-  
15 riod for appeals; and

16 “(B) will utilize the extension under this para-  
17 graph to notify property owners or lessees who are  
18 affected by the proposed flood elevation determina-  
19 tions of the period for appeals and the opportunity  
20 to appeal the determinations proposed by the Ad-  
21 ministrator.”.

22 (c) APPLICABILITY.—The amendments made by sub-  
23 sections (a) and (b) shall apply with respect to any flood  
24 elevation determination for any area in a community that  
25 has not, as of the date of the enactment of this Act, been

1 issued a Letter of Final Determination for such deter-  
2 mination under the flood insurance map modernization  
3 process.

4 **SEC. 365. RESERVE FUND.**

5 (a) ESTABLISHMENT.—Chapter I of the National  
6 Flood Insurance Act of 1968 is amended by inserting after  
7 section 1310 (42 U.S.C. 4017) the following new section:

8 **“SEC. 1310A. RESERVE FUND.**

9 “(a) ESTABLISHMENT OF RESERVE FUND.—In car-  
10 rying out the flood insurance program authorized by this  
11 title, the Administrator shall establish in the Treasury of  
12 the United States a National Flood Insurance Reserve  
13 Fund (in this section referred to as the ‘Reserve Fund’)  
14 which shall—

15 “(1) be an account separate from any other ac-  
16 counts or funds available to the Administrator; and

17 “(2) be available for meeting the expected fu-  
18 ture obligations of the flood insurance program.

19 “(b) RESERVE RATIO.—Subject to the phase-in re-  
20 quirements under subsection (d), the Reserve Fund shall  
21 maintain a balance equal to—

22 “(1) 1 percent of the sum of the total potential  
23 loss exposure of all outstanding flood insurance poli-  
24 cies in force in the prior fiscal year; or

1           “(2) such higher percentage as the Adminis-  
2           trator determines to be appropriate, taking into con-  
3           sideration any circumstance that may raise a signifi-  
4           cant risk of substantial future losses to the Reserve  
5           Fund.

6           “(c) MAINTENANCE OF RESERVE RATIO.—

7           “(1) IN GENERAL.—The Administrator shall  
8           have the authority to establish, increase, or decrease  
9           the amount of aggregate annual insurance premiums  
10          to be collected for any fiscal year necessary—

11                  “(A) to maintain the reserve ratio required  
12                  under subsection (b); and

13                  “(B) to achieve such reserve ratio, if the  
14                  actual balance of such reserve is below the  
15                  amount required under subsection (b).

16          “(2) CONSIDERATIONS.—In exercising the au-  
17          thority under paragraph (1), the Administrator shall  
18          consider—

19                  “(A) the expected operating expenses of  
20                  the Reserve Fund;

21                  “(B) the insurance loss expenditures under  
22                  the flood insurance program;

23                  “(C) any investment income generated  
24                  under the flood insurance program; and

1           “(D) any other factor that the Adminis-  
2           trator determines appropriate.

3           “(3) LIMITATIONS.—In exercising the authority  
4           under paragraph (1), the Administrator shall be  
5           subject to all other provisions of this Act, including  
6           any provisions relating to chargeable premium rates  
7           and annual increases of such rates.

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

10           “(1) IN GENERAL.—Beginning in fiscal year  
11           2012 and not ending until the fiscal year in which  
12           the ratio required under subsection (b) is achieved,  
13           in each such fiscal year the Administrator shall  
14           place in the Reserve Fund an amount equal to not  
15           less than 7.5 percent of the reserve ratio required  
16           under subsection (b).

17           “(2) AMOUNT SATISFIED.—As soon as the ratio  
18           required under subsection (b) is achieved, and except  
19           as provided in paragraph (3), the Administrator  
20           shall not be required to set aside any amounts for  
21           the Reserve Fund.

22           “(3) EXCEPTION.—If at any time after the  
23           ratio required under subsection (b) is achieved, the  
24           Reserve Fund falls below the required ratio under  
25           subsection (b), the Administrator shall place in the

1 Reserve Fund for that fiscal year an amount equal  
2 to not less than 7.5 percent of the reserve ratio re-  
3 quired under subsection (b).

4 “(e) LIMITATION ON RESERVE RATIO.—In any given  
5 fiscal year, if the Administrator determines that the re-  
6 serve ratio required under subsection (b) cannot be  
7 achieved, the Administrator shall submit a report to the  
8 Congress that—

9 “(1) describes and details the specific concerns  
10 of the Administrator regarding such consequences;

11 “(2) demonstrates how such consequences  
12 would harm the long-term financial soundness of the  
13 flood insurance program; and

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

16 “(f) AVAILABILITY OF AMOUNTS.—The reserve ratio  
17 requirements under subsection (b) and the phase-in re-  
18 quirements under subsection (d) shall be subject to the  
19 availability of amounts in the National Flood Insurance  
20 Fund for transfer under section 1310(a)(10), as provided  
21 in section 1310(f).”.

22 (b) FUNDING.—Subsection (a) of section 1310 of the  
23 National Flood Insurance Act of 1968 (42 U.S.C.  
24 4017(a)), as amended by the preceding provisions of this



1 Act, is further amended by adding at the end the following  
2 new paragraph:

3 “(10) for transfers to the National Flood Insur-  
4 ance Reserve Fund under section 1310A, in accord-  
5 ance with such section.”.

6 **SEC. 366. CDBG ELIGIBILITY FOR FLOOD INSURANCE OUT-**  
7 **REACH ACTIVITIES AND COMMUNITY BUILD-**  
8 **ING CODE ADMINISTRATION GRANTS.**

9 Section 105(a) of the Housing and Community De-  
10 velopment Act of 1974 (42 U.S.C. 5305(a)) is amended—

11 (1) in paragraph (24), by striking “and” at the  
12 end;

13 (2) in paragraph (25), by striking the period at  
14 the end and inserting a semicolon; and

15 (3) by adding at the end the following new  
16 paragraphs:

17 “(26) supplementing existing State or local  
18 funding for administration of building code enforce-  
19 ment by local building code enforcement depart-  
20 ments, including for increasing staffing, providing  
21 staff training, increasing staff competence and pro-  
22 fessional qualifications, and supporting individual  
23 certification or departmental accreditation, and for  
24 capital expenditures specifically dedicated to the ad-  
25 ministration of the building code enforcement de-

1       partment, except that, to be eligible to use amounts  
2       as provided in this paragraph—

3               “(A) a building code enforcement depart-  
4               ment shall provide matching, non-Federal funds  
5               to be used in conjunction with amounts used  
6               under this paragraph in an amount—

7                       “(i) in the case of a building code en-  
8                       forcement department serving an area with  
9                       a population of more than 50,000, equal to  
10                      not less than 50 percent of the total  
11                      amount of any funds made available under  
12                      this title that are used under this para-  
13                      graph;

14                     “(ii) in the case of a building code en-  
15                     forcement department serving an area with  
16                     a population of between 20,001 and  
17                     50,000, equal to not less than 25 percent  
18                     of the total amount of any funds made  
19                     available under this title that are used  
20                     under this paragraph; and

21                     “(iii) in the case of a building code  
22                     enforcement department serving an area  
23                     with a population of less than 20,000,  
24                     equal to not less than 12.5 percent of the  
25                     total amount of any funds made available

1           under this title that are used under this  
2           paragraph,  
3           except that the Secretary may waive the match-  
4           ing fund requirements under this subparagraph,  
5           in whole or in part, based upon the level of eco-  
6           nomic distress of the jurisdiction in which is lo-  
7           cated the local building code enforcement de-  
8           partment that is using amounts for purposes  
9           under this paragraph, and shall waive such  
10          matching fund requirements in whole for any  
11          recipient jurisdiction that has dedicated all  
12          building code permitting fees to the conduct of  
13          local building code enforcement; and

14               “(B) any building code enforcement de-  
15               partment using funds made available under this  
16               title for purposes under this paragraph shall  
17               empanel a code administration and enforcement  
18               team consisting of at least 1 full-time building  
19               code enforcement officer, a city planner, and a  
20               health planner or similar officer; and

21               “(27) provision of assistance to local govern-  
22               mental agencies responsible for floodplain manage-  
23               ment activities (including such agencies of Indians  
24               tribes, as such term is defined in section 4 of the  
25               Native American Housing Assistance and Self-De-

1 termination Act of 1996 (25 U.S.C. 4103)) in com-  
2 munities that participate in the national flood insur-  
3 ance program under the National Flood Insurance  
4 Act of 1968 (42 U.S.C. 4001 et seq.), only for car-  
5 rying out outreach activities to encourage and facili-  
6 tate the purchase of flood insurance protection  
7 under such Act by owners and renters of properties  
8 in such communities and to promote educational ac-  
9 tivities that increase awareness of flood risk reduc-  
10 tion; except that—

11 “(A) amounts used as provided under this  
12 paragraph shall be used only for activities de-  
13 signed to—

14 “(i) identify owners and renters of  
15 properties in communities that participate  
16 in the national flood insurance program,  
17 including owners of residential and com-  
18 mercial properties;

19 “(ii) notify such owners and renters  
20 when their properties become included in,  
21 or when they are excluded from, an area  
22 having special flood hazards and the effect  
23 of such inclusion or exclusion on the appli-  
24 cability of the mandatory flood insurance  
25 purchase requirement under section 102 of

1 the Flood Disaster Protection Act of 1973  
2 (42 U.S.C. 4012a) to such properties;

3 “(iii) educate such owners and renters  
4 regarding the flood risk and reduction of  
5 this risk in their community, including the  
6 continued flood risks to areas that are no  
7 longer subject to the flood insurance man-  
8 datory purchase requirement;

9 “(iv) educate such owners and renters  
10 regarding the benefits and costs of main-  
11 taining or acquiring flood insurance, in-  
12 cluding, where applicable, lower-cost pre-  
13 ferred risk policies under this title for such  
14 properties and the contents of such prop-  
15 erties;

16 “(v) encourage such owners and rent-  
17 ers to maintain or acquire such coverage;

18 “(vi) notify such owners of where to  
19 obtain information regarding how to obtain  
20 such coverage, including a telephone num-  
21 ber, mailing address, and Internet site of  
22 the Administrator of the Federal Emer-  
23 gency Management Agency (in this para-  
24 graph referred to as the ‘Administrator’)  
25 where such information is available; and

1           “(vii) educate local real estate agents  
2           in communities participating in the na-  
3           tional flood insurance program regarding  
4           the program and the availability of cov-  
5           erage under the program for owners and  
6           renters of properties in such communities,  
7           and establish coordination and liaisons  
8           with such real estate agents to facilitate  
9           purchase of coverage under the National  
10          Flood Insurance Act of 1968 and increase  
11          awareness of flood risk reduction;

12          “(B) in any fiscal year, a local govern-  
13          mental agency may not use an amount under  
14          this paragraph that exceeds 3 times the amount  
15          that the agency certifies, as the Secretary, in  
16          consultation with the Administrator, shall re-  
17          quire, that the agency will contribute from non-  
18          Federal funds to be used with such amounts  
19          used under this paragraph only for carrying out  
20          activities described in subparagraph (A); and  
21          for purposes of this subparagraph, the term  
22          ‘non-Federal funds’ includes State or local gov-  
23          ernment agency amounts, in-kind contributions,  
24          any salary paid to staff to carry out the eligible  
25          activities of the local governmental agency in-

1           involved, the value of the time and services con-  
2           tributed by volunteers to carry out such services  
3           (at a rate determined by the Secretary), and  
4           the value of any donated material or building  
5           and the value of any lease on a building;

6           “(C) a local governmental agency that uses  
7           amounts as provided under this paragraph may  
8           coordinate or contract with other agencies and  
9           entities having particular capacities, specialties,  
10          or experience with respect to certain popu-  
11          lations or constituencies, including elderly or  
12          disabled families or persons, to carry out activi-  
13          ties described in subparagraph (A) with respect  
14          to such populations or constituencies; and

15          “(D) each local government agency that  
16          uses amounts as provided under this paragraph  
17          shall submit a report to the Secretary and the  
18          Administrator, not later than 12 months after  
19          such amounts are first received, which shall in-  
20          clude such information as the Secretary and the  
21          Administrator jointly consider appropriate to  
22          describe the activities conducted using such  
23          amounts and the effect of such activities on the  
24          retention or acquisition of flood insurance cov-  
25          erage.”.

1 **SEC. 367. TECHNICAL CORRECTIONS.**

2 (a) FLOOD DISASTER PROTECTION ACT OF 1973.—

3 The Flood Disaster Protection Act of 1973 (42 U.S.C.  
4 4002 et seq.) is amended—

5 (1) by striking “Director” each place such term  
6 appears, except in section 102(f)(3) (42 U.S.C.  
7 4012a(f)(3)), and inserting “Administrator”; and

8 (2) in section 201(b) (42 U.S.C. 4105(b)), by  
9 striking “Director’s” and inserting “Administra-  
10 tor’s”.

11 (b) NATIONAL FLOOD INSURANCE ACT OF 1968.—

12 The National Flood Insurance Act of 1968 (42 U.S.C.  
13 4001 et seq.) is amended—

14 (1) by striking “Director” each place such term  
15 appears and inserting “Administrator”; and

16 (2) in section 1363 (42 U.S.C. 4104), by strik-  
17 ing “Director’s” each place such term appears and  
18 inserting “Administrator’s”.

19 (c) FEDERAL FLOOD INSURANCE ACT OF 1956.—

20 Section 15(e) of the Federal Flood Insurance Act of 1956  
21 (42 U.S.C. 2414(e)) is amended by striking “Director”  
22 each place such term appears and inserting “Adminis-  
23 trator”.



1 **SEC. 368. REQUIRING COMPETITION FOR NATIONAL FLOOD**  
2 **INSURANCE PROGRAM POLICIES.**

3 (a) REPORT.—Not later than the expiration of the  
4 90-day period beginning upon the date of the enactment  
5 of this Act, the Administrator of the Federal Emergency  
6 Management Agency, in consultation with insurance com-  
7 panies, insurance agents and other organizations with  
8 which the Administrator has contracted, shall submit to  
9 the Congress a report describing procedures and policies  
10 that the Administrator shall implement to limit the per-  
11 centage of policies for flood insurance coverage under the  
12 national flood insurance program that are directly man-  
13 aged by the Agency to not more than 10 percent of the  
14 aggregate number of flood insurance policies in force  
15 under such program.

16 (b) IMPLEMENTATION.—Upon submission of the re-  
17 port under subsection (a) to the Congress, the Adminis-  
18 trator shall implement the policies and procedures de-  
19 scribed in the report. The Administrator shall, not later  
20 than the expiration of the 12-month period beginning  
21 upon submission of such report, reduce the number of  
22 policies for flood insurance coverage that are directly man-  
23 aged by the Agency, or by the Agency's direct servicing  
24 contractor that is not an insurer, to not more than 10  
25 percent of the aggregate number of flood insurance poli-  
26 cies in force as of the expiration of such 12-month period.

1 (c) CONTINUATION OF CURRENT AGENT RELATION-  
2 SHIPS.—In carrying out subsection (b), the Administrator  
3 shall ensure that—

4 (1) agents selling or servicing policies described  
5 in such subsection are not prevented from con-  
6 tinuing to sell or service such policies; and

7 (2) insurance companies are not prevented from  
8 waiving any limitation such companies could other-  
9 wise enforce to limit any such activity.

10 **SEC. 369. STUDIES OF VOLUNTARY COMMUNITY-BASED**  
11 **FLOOD INSURANCE OPTIONS.**

12 (a) STUDIES.—The Administrator of the Federal  
13 Emergency Management Agency and the Comptroller  
14 General of the United States shall each conduct a separate  
15 study to assess options, methods, and strategies for offer-  
16 ing voluntary community-based flood insurance policy op-  
17 tions and incorporating such options into the national  
18 flood insurance program. Such studies shall take into con-  
19 sideration and analyze how the policy options would affect  
20 communities having varying economic bases, geographic  
21 locations, flood hazard characteristics or classifications,  
22 and flood management approaches.

23 (b) REPORTS.—Not later than the expiration of the  
24 18-month period beginning on the date of the enactment  
25 of this Act, the Administrator of the Federal Emergency

1 Management Agency and the Comptroller General of the  
2 United States shall each submit a report to the Committee  
3 on Financial Services of the House of Representatives and  
4 the Committee on Banking, Housing, and Urban Affairs  
5 of the Senate on the results and conclusions of the study  
6 such agency conducted under subsection (a), and each  
7 such report shall include recommendations for the best  
8 manner to incorporate voluntary community-based flood  
9 insurance options into the national flood insurance pro-  
10 gram and for a strategy to implement such options that  
11 would encourage communities to undertake flood mitiga-  
12 tion activities.

13 **SEC. 370. REPORT ON INCLUSION OF BUILDING CODES IN**  
14 **FLOODPLAIN MANAGEMENT CRITERIA.**

15 Not later than the expiration of the 6-month period  
16 beginning on the date of the enactment of this Act, the  
17 Administrator of the Federal Emergency Management  
18 Agency shall conduct a study and submit a report to the  
19 Committee on Financial Services of the House of Rep-  
20 resentatives and the Committee on Banking, Housing, and  
21 Urban Affairs of the Senate regarding the impact, effec-  
22 tiveness, and feasibility of amending section 1361 of the  
23 National Flood Insurance Act of 1968 (42 U.S.C. 4102)  
24 to include widely used and nationally recognized building

1 codes as part of the floodplain management criteria devel-  
2 oped under such section, and shall determine—

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

8 (2) the resources required of State and local  
9 communities to administer and enforce such a build-  
10 ing code requirement;

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

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

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

20 (6) the feasibility and effectiveness of providing  
21 an incentive in lower premium rates for flood insur-  
22 ance coverage under such Act for structures meeting  
23 whichever of such widely used and nationally recog-  
24 nized building code or any applicable local building  
25 code provides greater protection from flood damage;

1           (7) the impact of such a building code require-  
2           ment on rural communities with different building  
3           code challenges than more urban environments; and

4           (8) the impact of such a building code require-  
5           ment on Indian reservations.

6 **SEC. 371. STUDY ON GRADUATED RISK.**

7           (a) STUDY.—The National Academy of Sciences shall  
8           conduct a study exploring methods for understanding  
9           graduated risk behind levees and the associated land de-  
10          velopment, insurance, and risk communication dimensions,  
11          which shall—

12           (1) research, review, and recommend current  
13           best practices for estimating direct annualized flood  
14           losses behind levees for residential and commercial  
15           structures;

16           (2) rank such practices based on their best  
17           value, balancing cost, scientific integrity, and the in-  
18           herent uncertainties associated with all aspects of  
19           the loss estimate, including geotechnical engineering,  
20           flood frequency estimates, economic value, and direct  
21           damages;

22           (3) research, review, and identify current best  
23           floodplain management and land use practices be-  
24           hind levees that effectively balance social, economic,

1 and environmental considerations as part of an over-  
2 all flood risk management strategy;

3 (4) identify examples where such practices have  
4 proven effective and recommend methods and proc-  
5 esses by which they could be applied more broadly  
6 across the United States, given the variety of dif-  
7 ferent flood risks, State and local legal frameworks,  
8 and evolving judicial opinions;

9 (5) research, review, and identify a variety of  
10 flood insurance pricing options for flood hazards be-  
11 hind levees which are actuarially sound and based on  
12 the flood risk data developed using the top three  
13 best value approaches identified pursuant to para-  
14 graph (1);

15 (6) evaluate and recommend methods to reduce  
16 insurance costs through creative arrangements be-  
17 tween insureds and insurers while keeping a clear  
18 accounting of how much financial risk is being borne  
19 by various parties such that the entire risk is ac-  
20 counted for, including establishment of explicit limits  
21 on disaster aid or other assistance in the event of a  
22 flood; and

23 (7) taking into consideration the recommenda-  
24 tions pursuant to paragraphs (1) through (3), rec-  
25 ommend approaches to communicating the associ-

1 ated risks to community officials, homeowners, and  
2 other residents.

3 (b) REPORT.—Not later than the expiration of the  
4 12-month period beginning on the date of the enactment  
5 of this Act, the National Academy of Sciences shall submit  
6 a report to the Committees on Financial Services and  
7 Science, Space, and Technology of the House of Rep-  
8 resentatives and the Committees on Banking, Housing,  
9 and Urban Affairs and Commerce, Science and Transpor-  
10 tation of the Senate on the study under subsection (a) in-  
11 cluding the information and recommendations required  
12 under such subsection.

13 **SEC. 372. REPORT ON FLOOD-IN-PROGRESS DETERMINA-**  
14 **TION.**

15 The Administrator of the Federal Emergency Man-  
16 agement Agency shall review the processes and procedures  
17 for determining that a flood event has commenced or is  
18 in progress for purposes of flood insurance coverage made  
19 available under the national flood insurance program  
20 under the National Flood Insurance Act of 1968 and for  
21 providing public notification that such an event has com-  
22 menced or is in progress. In such review, the Adminis-  
23 trator shall take into consideration the effects and implica-  
24 tions that weather conditions, such as rainfall, snowfall,  
25 projected snowmelt, existing water levels, and other condi-

1 tions have on the determination that a flood event has  
2 commenced or is in progress. Not later than the expiration  
3 of the 6-month period beginning upon the date of the en-  
4 actment of this Act, the Administrator shall submit a re-  
5 port to the Congress setting forth the results and conclu-  
6 sions of the review undertaken pursuant to this section  
7 and any actions undertaken or proposed actions to be  
8 taken to provide for a more precise and technical deter-  
9 mination that a flooding event has commenced or is in  
10 progress.

11 **SEC. 373. STUDY ON REPAYING FLOOD INSURANCE DEBT.**

12 Not later than the expiration of the 6-month period  
13 beginning on the date of the enactment of this Act, the  
14 Administrator of the Federal Emergency Management  
15 Agency shall submit a report to the Congress setting forth  
16 a plan for repaying within 10 years all amounts, including  
17 any amounts previously borrowed but not yet repaid, owed  
18 pursuant to clause (2) of subsection (a) of section 1309  
19 of the National Flood Insurance Act of 1968 (42 U.S.C.  
20 4016(a)(2)).

21 **SEC. 374. NO CAUSE OF ACTION.**

22 No cause of action shall exist and no claim may be  
23 brought against the United States for violation of any no-  
24 tification requirement imposed upon the United States by  
25 this subtitle or any amendment made by this subtitle.



1 **SEC. 375. AUTHORITY FOR THE CORPS OF ENGINEERS TO**  
2 **PROVIDE SPECIALIZED OR TECHNICAL SERV-**  
3 **ICES.**

4 (a) **IN GENERAL.**—Notwithstanding any other provi-  
5 sion of law, upon the request of a State or local govern-  
6 ment, the Secretary of the Army may evaluate a levee sys-  
7 tem that was designed or constructed by the Secretary for  
8 the purposes of the National Flood Insurance Program es-  
9 tablished under chapter 1 of the National Flood Insurance  
10 Act of 1968 (42 U.S.C. 4011 et seq.).

11 (b) **REQUIREMENTS.**—A levee system evaluation  
12 under subsection (a) shall—

13 (1) comply with applicable regulations related  
14 to areas protected by a levee system;

15 (2) be carried out in accordance with such pro-  
16 cedures as the Secretary, in consultation with the  
17 Administrator of the Federal Emergency Manage-  
18 ment Agency, may establish; and

19 (3) be carried out only if the State or local gov-  
20 ernment agrees to reimburse the Secretary for all  
21 cost associated with the performance of the activi-  
22 ties.

1     **Subtitle E—Repeal of the Office of**  
2                     **Financial Research**

3     **SEC. 381. REPEAL OF THE OFFICE OF FINANCIAL RE-**  
4                     **SEARCH.**

5             (a) **IN GENERAL.**—Subtitle B of title I of the Dodd-  
6 Frank Wall Street Reform and Consumer Protection Act  
7 is hereby repealed.

8             (b) **CONFORMING AMENDMENTS TO THE DODD-**  
9 **FRANK ACT.**—The Dodd-Frank Wall Street Reform and  
10 Consumer Protection Act is amended—

11                 (1) in section 102(a), by striking paragraph  
12                 (5);

13                 (2) in section 111—

14                         (A) in subsection (b)(2)—

15                                 (i) by striking subparagraph (A); and

16                                 (ii) by redesignating subparagraphs

17   (B), (C), (D), and (E) as subparagraphs

18   (A), (B), (C), and (D), respectively;

19                                 (B) in subsection (c)(1), by striking “sub-

20   paragraphs (C), (D), and (E)” and inserting

21   “subparagraphs (B), (C), and (D)”;

22                 (3) in section 112—

23                         (A) in subsection (a)(2)—

1 (i) in subparagraph (A), by striking  
2 “direct the Office of Financial Research  
3 to”;

4 (ii) by striking subparagraph (B); and

5 (iii) by redesignating subparagraphs  
6 (C), (D), (E), (F), (G), (H), (I), (J), (K),  
7 (L), (M), and (N) as subparagraphs (B),  
8 (C), (D), (E), (F), (G), (H), (I), (J), (K),  
9 (L), and (M), respectively; and  
10 (B) in subsection (d)—

11 (i) in paragraph (1), by striking “the  
12 Office of Financial Research, member  
13 agencies, and” and inserting “member  
14 agencies and”;

15 (ii) in paragraph (2), by striking “the  
16 Office of Financial Research, any member  
17 agency, and” and inserting “any member  
18 agency and”;

19 (iii) in paragraph (3)—

20 (I) by striking “, acting through  
21 the Office of Financial Research,”  
22 each place it appears; and

23 (II) in subparagraph (B), by  
24 striking “the Office of Financial Re-  
25 search or”; and

1 (iv) in paragraph (5)(A), by striking  
2 “, the Office of Financial Research,”;

3 (4) in section 116, by striking “, acting through  
4 the Office of Financial Research,” each place it ap-  
5 pears; and

6 (5) by striking section 118.

7 (c) CONFORMING AMENDMENT TO THE PAPERWORK  
8 REDUCTION ACT.—Effective as of the date specified in  
9 section 1100H of the Dodd-Frank Wall Street Reform and  
10 Consumer Protection Act, section 1100D(a) of such Act  
11 is amended to read as follows:

12 “(a) DESIGNATION AS AN INDEPENDENT AGENCY.—  
13 Section 3502(5) of subchapter I of chapter 35 of title 44,  
14 United States Code (commonly known as the Paperwork  
15 Reduction Act) is amended by inserting ‘the Bureau of  
16 Consumer Financial Protection,’ after ‘the Securities and  
17 Exchange Commission,’.”

18 (d) TECHNICAL AMENDMENTS.—The table of con-  
19 tents for the Dodd-Frank Wall Street Reform and Con-  
20 sumer Protection Act is amended—

21 (1) by striking the item relating to section 118;

22 and

23 (2) by striking the items relating to subtitle B  
24 of title I.

1     **TITLE IV—COMMITTEE ON THE**  
2                                   **JUDICIARY**

3     **SEC. 401. SHORT TITLE.**

4             This title may be cited as the “Help Efficient, Acces-  
5     sible, Low-cost, Timely Healthcare (HEALTH) Act of  
6     2011”.

7     **SEC. 402. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

8             The time for the commencement of a health care law-  
9     suit shall be 3 years after the date of manifestation of  
10    injury or 1 year after the claimant discovers, or through  
11    the use of reasonable diligence should have discovered, the  
12    injury, whichever occurs first. In no event shall the time  
13    for commencement of a health care lawsuit exceed 3 years  
14    after the date of manifestation of injury unless tolled for  
15    any of the following—

16                 (1) upon proof of fraud;

17                 (2) intentional concealment; or

18                 (3) the presence of a foreign body, which has no  
19    therapeutic or diagnostic purpose or effect, in the  
20    person of the injured person.

21    Actions by a minor shall be commenced within 3 years  
22    from the date of the alleged manifestation of injury except  
23    that actions by a minor under the full age of 6 years shall  
24    be commenced within 3 years of manifestation of injury  
25    or prior to the minor’s 8th birthday, whichever provides

1 a longer period. Such time limitation shall be tolled for  
2 minors for any period during which a parent or guardian  
3 and a health care provider or health care organization  
4 have committed fraud or collusion in the failure to bring  
5 an action on behalf of the injured minor.

6 **SEC. 403. COMPENSATING PATIENT INJURY.**

7 (a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL  
8 ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any  
9 health care lawsuit, nothing in this title shall limit a claim-  
10 ant’s recovery of the full amount of the available economic  
11 damages, notwithstanding the limitation in subsection (b).

12 (b) ADDITIONAL NONECONOMIC DAMAGES.—In any  
13 health care lawsuit, the amount of noneconomic damages,  
14 if available, may be as much as \$250,000, regardless of  
15 the number of parties against whom the action is brought  
16 or the number of separate claims or actions brought with  
17 respect to the same injury.

18 (c) NO DISCOUNT OF AWARD FOR NONECONOMIC  
19 DAMAGES.—For purposes of applying the limitation in  
20 subsection (b), future noneconomic damages shall not be  
21 discounted to present value. The jury shall not be in-  
22 formed about the maximum award for noneconomic dam-  
23 ages. An award for noneconomic damages in excess of  
24 \$250,000 shall be reduced either before the entry of judg-  
25 ment, or by amendment of the judgment after entry of

1 judgment, and such reduction shall be made before ac-  
2 counting for any other reduction in damages required by  
3 law. If separate awards are rendered for past and future  
4 noneconomic damages and the combined awards exceed  
5 \$250,000, the future noneconomic damages shall be re-  
6 duced first.

7 (d) FAIR SHARE RULE.—In any health care lawsuit,  
8 each party shall be liable for that party's several share  
9 of any damages only and not for the share of any other  
10 person. Each party shall be liable only for the amount of  
11 damages allocated to such party in direct proportion to  
12 such party's percentage of responsibility. Whenever a  
13 judgment of liability is rendered as to any party, a sepa-  
14 rate judgment shall be rendered against each such party  
15 for the amount allocated to such party. For purposes of  
16 this section, the trier of fact shall determine the propor-  
17 tion of responsibility of each party for the claimant's  
18 harm.

19 **SEC. 404. MAXIMIZING PATIENT RECOVERY.**

20 (a) COURT SUPERVISION OF SHARE OF DAMAGES  
21 ACTUALLY PAID TO CLAIMANTS.—In any health care law-  
22 suit, the court shall supervise the arrangements for pay-  
23 ment of damages to protect against conflicts of interest  
24 that may have the effect of reducing the amount of dam-  
25 ages awarded that are actually paid to claimants. In par-

1 ticular, in any health care lawsuit in which the attorney  
2 for a party claims a financial stake in the outcome by vir-  
3 tue of a contingent fee, the court shall have the power  
4 to restrict the payment of a claimant's damage recovery  
5 to such attorney, and to redirect such damages to the  
6 claimant based upon the interests of justice and principles  
7 of equity. In no event shall the total of all contingent fees  
8 for representing all claimants in a health care lawsuit ex-  
9 ceed the following limits:

10 (1) Forty percent of the first \$50,000 recovered  
11 by the claimant(s).

12 (2) Thirty-three and one-third percent of the  
13 next \$50,000 recovered by the claimant(s).

14 (3) Twenty-five percent of the next \$500,000  
15 recovered by the claimant(s).

16 (4) Fifteen percent of any amount by which the  
17 recovery by the claimant(s) is in excess of \$600,000.

18 (b) APPLICABILITY.—The limitations in this section  
19 shall apply whether the recovery is by judgment, settle-  
20 ment, mediation, arbitration, or any other form of alter-  
21 native dispute resolution. In a health care lawsuit involv-  
22 ing a minor or incompetent person, a court retains the  
23 authority to authorize or approve a fee that is less than  
24 the maximum permitted under this section. The require-



1 ment for court supervision in the first two sentences of  
2 subsection (a) applies only in civil actions.

3 **SEC. 405. PUNITIVE DAMAGES.**

4 (a) IN GENERAL.—Punitive damages may, if other-  
5 wise permitted by applicable State or Federal law, be  
6 awarded against any person in a health care lawsuit only  
7 if it is proven by clear and convincing evidence that such  
8 person acted with malicious intent to injure the claimant,  
9 or that such person deliberately failed to avoid unneces-  
10 sary injury that such person knew the claimant was sub-  
11 stantially certain to suffer. In any health care lawsuit  
12 where no judgment for compensatory damages is rendered  
13 against such person, no punitive damages may be awarded  
14 with respect to the claim in such lawsuit. No demand for  
15 punitive damages shall be included in a health care lawsuit  
16 as initially filed. A court may allow a claimant to file an  
17 amended pleading for punitive damages only upon a mo-  
18 tion by the claimant and after a finding by the court, upon  
19 review of supporting and opposing affidavits or after a  
20 hearing, after weighing the evidence, that the claimant has  
21 established by a substantial probability that the claimant  
22 will prevail on the claim for punitive damages. At the re-  
23 quest of any party in a health care lawsuit, the trier of  
24 fact shall consider in a separate proceeding—

1           (1) whether punitive damages are to be award-  
2           ed and the amount of such award; and

3           (2) the amount of punitive damages following a  
4           determination of punitive liability.

5 If a separate proceeding is requested, evidence relevant  
6 only to the claim for punitive damages, as determined by  
7 applicable State law, shall be inadmissible in any pro-  
8 ceeding to determine whether compensatory damages are  
9 to be awarded.

10       (b) DETERMINING AMOUNT OF PUNITIVE DAM-  
11 AGES.—

12           (1) FACTORS CONSIDERED.—In determining  
13           the amount of punitive damages, if awarded, in a  
14           health care lawsuit, the trier of fact shall consider  
15           only the following—

16                   (A) the severity of the harm caused by the  
17                   conduct of such party;

18                   (B) the duration of the conduct or any  
19                   concealment of it by such party;

20                   (C) the profitability of the conduct to such  
21                   party;

22                   (D) the number of products sold or med-  
23                   ical procedures rendered for compensation, as  
24                   the case may be, by such party, of the kind

1 causing the harm complained of by the claim-  
2 ant;

3 (E) any criminal penalties imposed on such  
4 party, as a result of the conduct complained of  
5 by the claimant; and

6 (F) the amount of any civil fines assessed  
7 against such party as a result of the conduct  
8 complained of by the claimant.

9 (2) MAXIMUM AWARD.—The amount of punitive  
10 damages, if awarded, in a health care lawsuit may  
11 be as much as \$250,000 or as much as two times  
12 the amount of economic damages awarded, which-  
13 ever is greater. The jury shall not be informed of  
14 this limitation.

15 (c) NO PUNITIVE DAMAGES FOR PRODUCTS THAT  
16 COMPLY WITH FDA STANDARDS.—

17 (1) IN GENERAL.—

18 (A) No punitive damages may be awarded  
19 against the manufacturer or distributor of a  
20 medical product, or a supplier of any compo-  
21 nent or raw material of such medical product,  
22 based on a claim that such product caused the  
23 claimant's harm where—

24 (i)(I) such medical product was sub-  
25 ject to premarket approval, clearance, or li-

1           censure by the Food and Drug Administra-  
2           tion with respect to the safety of the for-  
3           mulation or performance of the aspect of  
4           such medical product which caused the  
5           claimant's harm or the adequacy of the  
6           packaging or labeling of such medical  
7           product; and

8           (II) such medical product was so ap-  
9           proved, cleared, or licensed; or

10          (ii) such medical product is generally  
11          recognized among qualified experts as safe  
12          and effective pursuant to conditions estab-  
13          lished by the Food and Drug Administra-  
14          tion and applicable Food and Drug Admin-  
15          istration regulations, including without  
16          limitation those related to packaging and  
17          labeling, unless the Food and Drug Admin-  
18          istration has determined that such medical  
19          product was not manufactured or distrib-  
20          uted in substantial compliance with appli-  
21          cable Food and Drug Administration stat-  
22          utes and regulations.

23          (B) RULE OF CONSTRUCTION.—Subpara-  
24          graph (A) may not be construed as establishing  
25          the obligation of the Food and Drug Adminis-

1           tration to demonstrate affirmatively that a  
2           manufacturer, distributor, or supplier referred  
3           to in such subparagraph meets any of the con-  
4           ditions described in such subparagraph.

5           (2) LIABILITY OF HEALTH CARE PROVIDERS.—

6           A health care provider who prescribes, or who dis-  
7           penses pursuant to a prescription, a medical product  
8           approved, licensed, or cleared by the Food and Drug  
9           Administration shall not be named as a party to a  
10          product liability lawsuit involving such product and  
11          shall not be liable to a claimant in a class action  
12          lawsuit against the manufacturer, distributor, or  
13          seller of such product. Nothing in this paragraph  
14          prevents a court from consolidating cases involving  
15          health care providers and cases involving products li-  
16          ability claims against the manufacturer, distributor,  
17          or product seller of such medical product.

18          (3) PACKAGING.—In a health care lawsuit for  
19          harm which is alleged to relate to the adequacy of  
20          the packaging or labeling of a drug which is required  
21          to have tamper-resistant packaging under regula-  
22          tions of the Secretary of Health and Human Serv-  
23          ices (including labeling regulations related to such  
24          packaging), the manufacturer or product seller of  
25          the drug shall not be held liable for punitive dam-

1       ages unless such packaging or labeling is found by  
2       the trier of fact by clear and convincing evidence to  
3       be substantially out of compliance with such regula-  
4       tions.

5           (4) EXCEPTION.—Paragraph (1) shall not  
6       apply in any health care lawsuit in which—

7           (A) a person, before or after premarket ap-  
8       proval, clearance, or licensure of such medical  
9       product, knowingly misrepresented to or with-  
10      held from the Food and Drug Administration  
11      information that is required to be submitted  
12      under the Federal Food, Drug, and Cosmetic  
13      Act (21 U.S.C. 301 et seq.) or section 351 of  
14      the Public Health Service Act (42 U.S.C. 262)  
15      that is material and is causally related to the  
16      harm which the claimant allegedly suffered

17          (B) a person made an illegal payment to  
18      an official of the Food and Drug Administra-  
19      tion for the purpose of either securing or main-  
20      taining approval, clearance, or licensure of such  
21      medical product; or

22          (C) the defendant caused the medical prod-  
23      uct which caused the claimant's harm to be  
24      misbranded or adulterated (as such terms are

1           used in chapter V of the Federal Food, Drug,  
2           and Cosmetic Act (21 U.S.C. 351 et seq.)).

3 **SEC. 406. AUTHORIZATION OF PAYMENT OF FUTURE DAM-**  
4                   **AGES TO CLAIMANTS IN HEALTH CARE LAW-**  
5                   **SUITS.**

6           (a) IN GENERAL.—In any health care lawsuit, if an  
7           award of future damages, without reduction to present  
8           value, equaling or exceeding \$50,000 is made against a  
9           party with sufficient insurance or other assets to fund a  
10          periodic payment of such a judgment, the court shall, at  
11          the request of any party, enter a judgment ordering that  
12          the future damages be paid by periodic payments, in ac-  
13          cordance with the Uniform Periodic Payment of Judg-  
14          ments Act promulgated by the National Conference of  
15          Commissioners on Uniform State Laws.

16          (b) APPLICABILITY.—This section applies to all ac-  
17          tions which have not been first set for trial or retrial be-  
18          fore the effective date of this title.

19 **SEC. 407. DEFINITIONS.**

20          In this title:

21                  (1) ALTERNATIVE DISPUTE RESOLUTION SYS-  
22                  TEM; ADR.—The term “alternative dispute resolution  
23                  system” or “ADR” means a system that provides  
24                  for the resolution of health care lawsuits in a man-

1       ner other than through a civil action brought in a  
2       State or Federal court.

3           (2) CLAIMANT.—The term “claimant” means  
4       any person who brings a health care lawsuit, includ-  
5       ing a person who asserts or claims a right to legal  
6       or equitable contribution, indemnity, or subrogation,  
7       arising out of a health care liability claim or action,  
8       and any person on whose behalf such a claim is as-  
9       serted or such an action is brought, whether de-  
10      ceased, incompetent, or a minor.

11          (3) COMPENSATORY DAMAGES.—The term  
12      “compensatory damages” means objectively  
13      verifiable monetary losses incurred as a result of the  
14      provision of, use of, or payment for (or failure to  
15      provide, use, or pay for) health care services or med-  
16      ical products, such as past and future medical ex-  
17      penses, loss of past and future earnings, cost of ob-  
18      taining domestic services, loss of employment, and  
19      loss of business or employment opportunities, dam-  
20      ages for physical and emotional pain, suffering, in-  
21      convenience, physical impairment, mental anguish,  
22      disfigurement, loss of enjoyment of life, loss of soci-  
23      ety and companionship, loss of consortium (other  
24      than loss of domestic service), hedonic damages, in-  
25      jury to reputation, and all other nonpecuniary losses



1 of any kind or nature. The term “compensatory  
2 damages” includes economic damages and non-  
3 economic damages, as such terms are defined in this  
4 section.

5 (4) CONTINGENT FEE.—The term “contingent  
6 fee” includes all compensation to any person or per-  
7 sons which is payable only if a recovery is effected  
8 on behalf of one or more claimants.

9 (5) ECONOMIC DAMAGES.—The term “economic  
10 damages” means objectively verifiable monetary  
11 losses incurred as a result of the provision of, use  
12 of, or payment for (or failure to provide, use, or pay  
13 for) health care services or medical products, such as  
14 past and future medical expenses, loss of past and  
15 future earnings, cost of obtaining domestic services,  
16 loss of employment, and loss of business or employ-  
17 ment opportunities.

18 (6) HEALTH CARE LAWSUIT.—The term  
19 “health care lawsuit” means any health care liability  
20 claim concerning the provision of health care goods  
21 or services or any medical product affecting inter-  
22 state commerce, or any health care liability action  
23 concerning the provision of health care goods or  
24 services or any medical product affecting interstate  
25 commerce, brought in a State or Federal court or

1       pursuant to an alternative dispute resolution system,  
2       against a health care provider, a health care organi-  
3       zation, or the manufacturer, distributor, supplier,  
4       marketer, promoter, or seller of a medical product,  
5       regardless of the theory of liability on which the  
6       claim is based, or the number of claimants, plain-  
7       tiffs, defendants, or other parties, or the number of  
8       claims or causes of action, in which the claimant al-  
9       leges a health care liability claim. Such term does  
10      not include a claim or action which is based on  
11      criminal liability; which seeks civil fines or penalties  
12      paid to Federal, State, or local government; or which  
13      is grounded in antitrust.

14           (7) HEALTH CARE LIABILITY ACTION.—The  
15      term “health care liability action” means a civil ac-  
16      tion brought in a State or Federal court or pursuant  
17      to an alternative dispute resolution system, against  
18      a health care provider, a health care organization, or  
19      the manufacturer, distributor, supplier, marketer,  
20      promoter, or seller of a medical product, regardless  
21      of the theory of liability on which the claim is based,  
22      or the number of plaintiffs, defendants, or other par-  
23      ties, or the number of causes of action, in which the  
24      claimant alleges a health care liability claim.

1           (8) HEALTH CARE LIABILITY CLAIM.—The  
2 term “health care liability claim” means a demand  
3 by any person, whether or not pursuant to ADR,  
4 against a health care provider, health care organiza-  
5 tion, or the manufacturer, distributor, supplier, mar-  
6 keter, promoter, or seller of a medical product, in-  
7 cluding, but not limited to, third-party claims, cross-  
8 claims, counter-claims, or contribution claims, which  
9 are based upon the provision of, use of, or payment  
10 for (or the failure to provide, use, or pay for) health  
11 care services or medical products, regardless of the  
12 theory of liability on which the claim is based, or the  
13 number of plaintiffs, defendants, or other parties, or  
14 the number of causes of action.

15           (9) HEALTH CARE ORGANIZATION.—The term  
16 “health care organization” means any person or en-  
17 tity which is obligated to provide or pay for health  
18 benefits under any health plan, including any person  
19 or entity acting under a contract or arrangement  
20 with a health care organization to provide or admin-  
21 ister any health benefit.

22           (10) HEALTH CARE PROVIDER.—The term  
23 “health care provider” means any person or entity  
24 required by State or Federal laws or regulations to  
25 be licensed, registered, or certified to provide health

1 care services, and being either so licensed, reg-  
2 istered, or certified, or exempted from such require-  
3 ment by other statute or regulation.

4 (11) HEALTH CARE GOODS OR SERVICES.—The  
5 term “health care goods or services” means any  
6 goods or services provided by a health care organiza-  
7 tion, provider, or by any individual working under  
8 the supervision of a health care provider, that relates  
9 to the diagnosis, prevention, or treatment of any  
10 human disease or impairment, or the assessment or  
11 care of the health of human beings.

12 (12) MALICIOUS INTENT TO INJURE.—The  
13 term “malicious intent to injure” means inten-  
14 tionally causing or attempting to cause physical in-  
15 jury other than providing health care goods or serv-  
16 ices.

17 (13) MEDICAL PRODUCT.—The term “medical  
18 product” means a drug, device, or biological product  
19 intended for humans, and the terms “drug”, “de-  
20 vice”, and “biological product” have the meanings  
21 given such terms in sections 201(g)(1) and 201(h)  
22 of the Federal Food, Drug and Cosmetic Act (21  
23 U.S.C. 321(g)(1) and (h)) and section 351(a) of the  
24 Public Health Service Act (42 U.S.C. 262(a)), re-

1 spectively, including any component or raw material  
2 used therein, but excluding health care services.

3 (14) NONECONOMIC DAMAGES.—The term  
4 “noneconomic damages” means damages for phys-  
5 ical and emotional pain, suffering, inconvenience,  
6 physical impairment, mental anguish, disfigurement,  
7 loss of enjoyment of life, loss of society and compan-  
8 ionship, loss of consortium (other than loss of do-  
9 mestic service), hedonic damages, injury to reputa-  
10 tion, and all other nonpecuniary losses of any kind  
11 or nature.

12 (15) PUNITIVE DAMAGES.—The term “punitive  
13 damages” means damages awarded, for the purpose  
14 of punishment or deterrence, and not solely for com-  
15 pensatory purposes, against a health care provider,  
16 health care organization, or a manufacturer, dis-  
17 tributor, or supplier of a medical product. Punitive  
18 damages are neither economic nor noneconomic  
19 damages.

20 (16) RECOVERY.—The term “recovery” means  
21 the net sum recovered after deducting any disburse-  
22 ments or costs incurred in connection with prosecu-  
23 tion or settlement of the claim, including all costs  
24 paid or advanced by any person. Costs of health care  
25 incurred by the plaintiff and the attorneys’ office

1 overhead costs or charges for legal services are not  
2 deductible disbursements or costs for such purpose.

3 (17) STATE.—The term “State” means each of  
4 the several States, the District of Columbia, the  
5 Commonwealth of Puerto Rico, the Virgin Islands,  
6 Guam, American Samoa, the Northern Mariana Is-  
7 lands, the Trust Territory of the Pacific Islands, and  
8 any other territory or possession of the United  
9 States, or any political subdivision thereof.

10 **SEC. 408. EFFECT ON OTHER LAWS.**

11 (a) VACCINE INJURY.—

12 (1) To the extent that title XXI of the Public  
13 Health Service Act establishes a Federal rule of law  
14 applicable to a civil action brought for a vaccine-re-  
15 lated injury or death—

16 (A) this title does not affect the application  
17 of the rule of law to such an action; and

18 (B) any rule of law prescribed by this title  
19 in conflict with a rule of law of such title XXI  
20 shall not apply to such action.

21 (2) If there is an aspect of a civil action  
22 brought for a vaccine-related injury or death to  
23 which a Federal rule of law under title XXI of the  
24 Public Health Service Act does not apply, then this  
25 title or otherwise applicable law (as determined

1 under this title) will apply to such aspect of such ac-  
2 tion.

3 (b) OTHER FEDERAL LAW.—Except as provided in  
4 this section, nothing in this title shall be deemed to affect  
5 any defense available to a defendant in a health care law-  
6 suit or action under any other provision of Federal law.

7 **SEC. 409. STATE FLEXIBILITY AND PROTECTION OF**  
8 **STATES' RIGHTS.**

9 (a) HEALTH CARE LAWSUITS.—The provisions gov-  
10 erning health care lawsuits set forth in this title preempt,  
11 subject to subsections (b) and (c), State law to the extent  
12 that State law prevents the application of any provisions  
13 of law established by or under this title. The provisions  
14 governing health care lawsuits set forth in this title super-  
15 sede chapter 171 of title 28, United States Code, to the  
16 extent that such chapter—

17 (1) provides for a greater amount of damages  
18 or contingent fees, a longer period in which a health  
19 care lawsuit may be commenced, or a reduced appli-  
20 cability or scope of periodic payment of future dam-  
21 ages, than provided in this title; or

22 (2) prohibits the introduction of evidence re-  
23 garding collateral source benefits, or mandates or  
24 permits subrogation or a lien on collateral source  
25 benefits.

1 (b) PROTECTION OF STATES' RIGHTS AND OTHER  
2 LAWS.—(1) Any issue that is not governed by any provi-  
3 sion of law established by or under this title (including  
4 State standards of negligence) shall be governed by other-  
5 wise applicable State or Federal law.

6 (2) This title shall not preempt or supersede any  
7 State or Federal law that imposes greater procedural or  
8 substantive protections for health care providers and  
9 health care organizations from liability, loss, or damages  
10 than those provided by this title or create a cause of ac-  
11 tion.

12 (c) STATE FLEXIBILITY.—No provision of this title  
13 shall be construed to preempt—

14 (1) any State law (whether effective before, on,  
15 or after the date of the enactment of this Act) that  
16 specifies a particular monetary amount of compen-  
17 satory or punitive damages (or the total amount of  
18 damages) that may be awarded in a health care law-  
19 suit, regardless of whether such monetary amount is  
20 greater or lesser than is provided for under this title,  
21 notwithstanding section 303(a); or

22 (2) any defense available to a party in a health  
23 care lawsuit under any other provision of State or  
24 Federal law.



1 **SEC. 410. APPLICABILITY; EFFECTIVE DATE.**

2 This title shall apply to any health care lawsuit  
3 brought in a Federal or State court, or subject to an alter-  
4 native dispute resolution system, that is initiated on or  
5 after the date of the enactment of this Act, except that  
6 any health care lawsuit arising from an injury occurring  
7 prior to the date of the enactment of this Act shall be  
8 governed by the applicable statute of limitations provisions  
9 in effect at the time the injury occurred.

10 **TITLE V—COMMITTEE ON OVER-**  
11 **SIGHT AND GOVERNMENT RE-**  
12 **FORM**

13 **SEC. 501. RETIREMENT CONTRIBUTIONS.**

14 (a) CIVIL SERVICE RETIREMENT SYSTEM.—

15 (1) INDIVIDUAL CONTRIBUTIONS.—Section  
16 8334(e) of title 5, United States Code, is amended—

17 (A) by striking “(e) Each” and inserting  
18 “(e)(1) Each”; and

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

20 “(2) Notwithstanding any other provision of this sub-  
21 section, the applicable percentage of basic pay under this  
22 subsection shall—

23 “(A) except as provided in subparagraph (B) or  
24 (C), for purposes of computing an amount—

25 “(i) for a period in calendar year 2013, be  
26 equal to the applicable percentage under this

1 subsection for calendar year 2012, plus an ad-  
2 ditional 1.5 percentage points;

3 “(ii) for a period in calendar year 2014, be  
4 equal to the applicable percentage under this  
5 subsection for calendar year 2013 (as deter-  
6 mined under clause (i)), plus an additional 0.5  
7 percentage point;

8 “(iii) for a period in calendar year 2015,  
9 2016, or 2017, be equal to the applicable per-  
10 centage under this subsection for the preceding  
11 calendar year (as determined under clause (ii)  
12 or this clause, as the case may be), plus an ad-  
13 ditional 1.0 percentage point; and

14 “(iv) for a period in any calendar year  
15 after 2017, be equal to the applicable percent-  
16 age under this subsection for calendar year  
17 2017 (as determined under clause (iii));

18 “(B) for purposes of computing an amount with  
19 respect to a Member for Member service—

20 “(i) for a period in calendar year 2013, be  
21 equal to the applicable percentage under this  
22 subsection for calendar year 2012, plus an ad-  
23 ditional 2.5 percentage points;

24 “(ii) for a period in calendar year 2014,  
25 2015, 2016, or 2017, be equal to the applicable

1 percentage under this subsection for the pre-  
2 ceding calendar year (as determined under  
3 clause (i) or this clause, as the case may be),  
4 plus an additional 1.5 percentage points; and

5 “(iii) for a period in any calendar year  
6 after 2017, be equal to the applicable percent-  
7 age under this subsection for calendar year  
8 2017 (as determined under clause (ii)); and

9 “(C) for purposes of computing an amount with  
10 respect to a Member or employee for Congressional  
11 employee service—

12 “(i) for a period in calendar year 2013, be  
13 equal to the applicable percentage under this  
14 subsection for calendar year 2012, plus an ad-  
15 ditional 2.5 percentage points;

16 “(ii) for a period in calendar year 2014,  
17 2015, 2016, or 2017, be equal to the applicable  
18 percentage under this subsection for the pre-  
19 ceding calendar year (as determined under  
20 clause (i) or this clause, as the case may be),  
21 plus an additional 1.5 percentage points; and

22 “(iii) for a period in any calendar year  
23 after 2017, be equal to the applicable percent-  
24 age under this subsection for calendar year  
25 2017 (as determined under clause (ii)).”.

1           (2) GOVERNMENT CONTRIBUTIONS.—Section  
2           8334(a)(1)(B) of title 5, United States Code, is  
3           amended—

4                   (A) in clause (i), by striking “Except as  
5                   provided in clause (ii),” and inserting “Except  
6                   as provided in clause (ii) or (iii),”; and

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

8           “(iii) The amount to be contributed under clause (i)  
9           shall, with respect to a period in any year beginning after  
10          December 31, 2012, be equal to—

11                   “(I) the amount which would otherwise apply  
12                   under clause (i) with respect to such period, reduced  
13                   by

14                   “(II) the amount by which, with respect to such  
15                   period, the withholding under subparagraph (A) ex-  
16                   ceeds the amount which would otherwise have been  
17                   withheld from the basic pay of the employee or elect-  
18                   ed official involved under subparagraph (A) based on  
19                   the percentage applicable under subsection (c) for  
20                   calendar year 2012.”.

21          (b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—  
22          Section 8422(a)(3) of title 5, United States Code, is  
23          amended—

24                   (1) by redesignating subparagraph (B) as sub-  
25                   paragraph (C);

1           (2) by inserting after subparagraph (A) the fol-  
2       lowing:

3       “(B) Notwithstanding any other provision of this  
4       paragraph, the applicable percentage under this para-  
5       graph shall—

6           “(i) except as provided in clause (ii) or (iii), for  
7       purposes of computing an amount—

8           “(I) for a period in calendar year 2013, be  
9       equal to the applicable percentage under this  
10      paragraph for calendar year 2012, plus an ad-  
11      ditional 1.5 percentage points;

12          “(II) for a period in calendar year 2014,  
13      be equal to the applicable percentage under this  
14      paragraph for calendar year 2013 (as deter-  
15      mined under subclause (I)), plus an additional  
16      0.5 percentage point;

17          “(III) for a period in calendar year 2015,  
18      2016, or 2017, be equal to the applicable per-  
19      centage under this paragraph for the preceding  
20      calendar year (as determined under subclause  
21      (II) or this subclause, as the case may be), plus  
22      an additional 1.0 percentage point; and

23          “(IV) for a period in any calendar year  
24      after 2017, be equal to the applicable percent-

1           age under this paragraph for calendar year  
2           2017 (as determined under subclause (III));

3           “(ii) for purposes of computing an amount with  
4           respect to a Member—

5                   “(I) for a period in calendar year 2013, be  
6                   equal to the applicable percentage under this  
7                   paragraph for calendar year 2012, plus an ad-  
8                   ditional 2.5 percentage points;

9                   “(II) for a period in calendar year 2014,  
10                  2015, 2016, or 2017, be equal to the applicable  
11                  percentage under this paragraph for the pre-  
12                  ceding calendar year (as determined under sub-  
13                  clause (I) or this subclause, as the case may  
14                  be), plus an additional 1.5 percentage points;  
15                  and

16                  “(III) for a period in any calendar year  
17                  after 2017, be equal to the applicable percent-  
18                  age under this paragraph for calendar year  
19                  2017 (as determined under subclause (II)); and

20           “(iii) for purposes of computing an amount  
21           with respect to a Congressional employee—

22                   “(I) for a period in calendar year 2013,  
23                   2014, 2015, 2016, or 2017, be equal to the ap-  
24                   plicable percentage under this paragraph for  
25                   the preceding calendar year (including as in-

1           creased under this subclause, if applicable), plus  
2           an additional 1.5 percentage points; and

3           “(II) for a period in any calendar year  
4           after 2017, be equal to the applicable percent-  
5           age under this paragraph for calendar year  
6           2017 (as determined under subclause (I)).”;  
7           and

8           (3) in subparagraph (C) (as so redesignated by  
9           paragraph (1))—

10           (A) by striking “9.3” each place it appears  
11           and inserting “12”; and

12           (B) by striking “9.8” each place it appears  
13           and inserting “12.5”.

14 **SEC. 502. ANNUITY SUPPLEMENT.**

15           Section 8421(a) of title 5, United States Code, is  
16           amended—

17           (1) in paragraph (1), by striking “paragraph  
18           (3)” and inserting “paragraphs (3) and (4)”;

19           (2) in paragraph (2), by striking “paragraph  
20           (3)” and inserting “paragraphs (3) and (4)”;

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

22           “(4)(A) Except as provided in subparagraph (B), no  
23           annuity supplement under this section shall be payable in  
24           the case of an individual who first becomes subject to this  
25           chapter after December 31, 2012.

1 “(B) Nothing in this paragraph applies in the case  
2 of an individual separating under subsection (d) or (e) of  
3 section 8412.”.

4 **SEC. 503. CONTRIBUTIONS TO THRIFT SAVINGS FUND OF**  
5 **PAYMENTS FOR ACCRUED OR ACCUMULATED**  
6 **LEAVE.**

7 (a) AMENDMENTS RELATING TO CSRS.—Section  
8 8351(b) of title 5, United States Code, is amended—

9 (1) by striking paragraph (2)(A) and inserting  
10 the following:

11 “(2)(A) An employee or Member may contribute to  
12 the Thrift Savings Fund in any pay period any amount  
13 of such employee’s or Member’s basic pay for such pay  
14 period, and may contribute (by direct transfer to the  
15 Fund) any part of any payment that the employee or  
16 Member receives for accumulated and accrued annual or  
17 vacation leave under section 5551 or 5552. Notwith-  
18 standing section 2105(e), in this paragraph the term ‘em-  
19 ployee’ includes an employee of the United States Postal  
20 Service or of the Postal Regulatory Commission.”;

21 (2) by striking subparagraph (B) of paragraph  
22 (2); and

23 (3) by redesignating subparagraph (C) of para-  
24 graph (2) as subparagraph (B).



1 (b) AMENDMENTS RELATING TO FERS.—Section  
2 8432(a) of title 5, United States Code, is amended—

3 (1) by striking all that precedes paragraph (3)  
4 and inserting the following:

5 “(a)(1) An employee or Member—

6 “(A) may contribute to the Thrift Savings  
7 Fund in any pay period, pursuant to an election  
8 under subsection (b), any amount of such employee’s  
9 or Member’s basic pay for such pay period; and

10 “(B) may contribute (by direct transfer to the  
11 Fund) any part of any payment that the employee  
12 or Member receives for accumulated and accrued an-  
13 nual or vacation leave under section 5551 or 5552.

14 “(2) Contributions made under paragraph (1)(A)  
15 pursuant to an election under subsection (b) shall, with  
16 respect to each pay period for which such election remains  
17 in effect, be made in accordance with a program of regular  
18 contributions provided in regulations prescribed by the  
19 Executive Director.”; and

20 (2) by adding at the end the following:

21 “(4) Notwithstanding section 2105(e), in this sub-  
22 section the term ‘employee’ includes an employee of the  
23 United States Postal Service or of the Postal Regulatory  
24 Commission.”.

1 (c) REGULATIONS.—The Executive Director of the  
2 Federal Retirement Thrift Investment Board shall pro-  
3 mulgate regulations to carry out the amendments made  
4 by this section.

5 (d) EFFECTIVE DATE.—The amendments made by  
6 subsections (a) and (b) shall take effect 1 year after the  
7 date of the enactment of this Act.

8 **TITLE VI—COMMITTEE ON WAYS**  
9 **AND MEANS**

10 **Subtitle A—Recapture of Overpay-**  
11 **ments Resulting From Certain**  
12 **Federally-subsidized Health In-**  
13 **surance**

14 **SEC. 601. RECAPTURE OF OVERPAYMENTS RESULTING**  
15 **FROM CERTAIN FEDERALLY-SUBSIDIZED**  
16 **HEALTH INSURANCE.**

17 (a) IN GENERAL.—Paragraph (2) of section 36B(f)  
18 of the Internal Revenue Code of 1986 is amended by strik-  
19 ing subparagraph (B).

20 (b) CONFORMING AMENDMENT.—So much of para-  
21 graph (2) of section 36B(f) of such Code, as amended by  
22 subsection (a), as precedes “advance payments” is amend-  
23 ed to read as follows:

24 “(2) EXCESS ADVANCE PAYMENTS.—If the”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years ending after De-  
3 cember 31, 2013.

4 **Subtitle B—Social Security Num-**  
5 **ber Required to Claim the Re-**  
6 **fundable Portion of the Child**  
7 **Tax Credit**

8 **SEC. 611. SOCIAL SECURITY NUMBER REQUIRED TO CLAIM**  
9 **THE REFUNDABLE PORTION OF THE CHILD**  
10 **TAX CREDIT.**

11 (a) IN GENERAL.—Subsection (d) of section 24 of the  
12 Internal Revenue Code of 1986 is amended by adding at  
13 the end the following new paragraph:

14 “(5) IDENTIFICATION REQUIREMENT WITH RE-  
15 SPECT TO TAXPAYER.—

16 “(A) IN GENERAL.—Paragraph (1) shall  
17 not apply to any taxpayer for any taxable year  
18 unless the taxpayer includes the taxpayer’s So-  
19 cial Security number on the return of tax for  
20 such taxable year.

21 “(B) JOINT RETURNS.—In the case of a  
22 joint return, the requirement of subparagraph  
23 (A) shall be treated as met if the Social Secu-  
24 rity number of either spouse is included on such  
25 return.

1           “(C) LIMITATION.—Subparagraph (A)  
2 shall not apply to the extent the tentative min-  
3 imum tax (as defined in section 55(b)(1)(A))  
4 exceeds the credit allowed under section 32.”.

5           (b) OMISSION TREATED AS MATHEMATICAL OR  
6 CLERICAL ERROR.—Subparagraph (I) of section  
7 6213(g)(2) of such Code is amended to read as follows:

8           “(I) an omission of a correct Social Secu-  
9 rity number required under section 24(d)(5)  
10 (relating to refundable portion of child tax cred-  
11 it), or a correct TIN under section 24(e) (relat-  
12 ing to child tax credit), to be included on a re-  
13 turn,”.

14           (c) CONFORMING AMENDMENT.—Subsection (e) of  
15 section 24 of such Code is amended by inserting “WITH  
16 RESPECT TO QUALIFYING CHILDREN” after “IDENTI-  
17 FICATION REQUIREMENT” in the heading thereof.

18           (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years beginning after  
20 the date of the enactment of this Act.

1           **Subtitle C—Human Resources**  
2                           **Provisions**

3   **SEC. 621. REPEAL OF THE PROGRAM OF BLOCK GRANTS TO**  
4                           **STATES FOR SOCIAL SERVICES.**

5           (a) REPEALS.—Sections 2001 through 2007 of the  
6 Social Security Act (42 U.S.C. 1397–1397f) are repealed.

7           (b) CONFORMING AMENDMENTS.—

8                   (1) Section 404(d) of the Social Security Act  
9                   (42 U.S.C. 604(d)) is amended—

10                           (A) in paragraph (1), by striking “any or  
11                           all of the following provisions of law:” and all  
12                           that follows through “The” and inserting  
13                           “the”;

14                           (B) in paragraph (3)—

15                                   (i) by striking “RULES” and all that  
16                                   follows through “any amount paid” and in-  
17                                   serting “RULES.—Any amount paid”;

18                                   (ii) by striking “a provision of law  
19                                   specified in paragraph (1)” and inserting  
20                                   “the Child Care and Development Block  
21                                   Grant Act of 1990”; and

22                                   (iii) by striking subparagraph (B);

23                           and

24                           (C) by striking paragraph (2) and redesignig-  
25                           nating paragraph (3) as paragraph (2).

1           (2) Section 422(b) of the Social Security Act  
2 (42 U.S.C. 622(b)) is amended—

3           (A) in paragraph (1)(A)—

4                 (i) by striking “administers or super-  
5 vises” and inserting “administered or su-  
6 pervised”; and

7                 (ii) by striking “subtitle 1 of title  
8 XX” and inserting “subtitle A of title XX  
9 (as in effect before the repeal of such sub-  
10 title)”; and

11           (B) in paragraph (2), by striking “under  
12 subtitle 1 of title XX,”.

13           (3) Section 471(a) of the Social Security Act  
14 (42 U.S.C. 671(a)) is amended—

15           (A) in paragraph (4), by striking “, under  
16 subtitle 1 of title XX of this Act,”; and

17           (B) in paragraph (8), by striking “XIX, or  
18 XX” and inserting “or XIX”.

19           (4) Section 472(h)(1) of the Social Security Act  
20 (42 U.S.C. 672(h)(1)) is amended by striking the  
21 2nd sentence.

22           (5) Section 473(b) of the Social Security Act  
23 (42 U.S.C. 673(b)) is amended—

24           (A) in paragraph (1), by striking “(3)”  
25 and inserting “(2)”;

1 (B) in paragraph (4), by striking “para-  
2 graphs (1) and (2)” and inserting “paragraph  
3 (1)”; and

4 (C) by striking paragraph (2) and redesign-  
5 ating paragraphs (3) and (4) as paragraphs  
6 (2) and (3), respectively.

7 (6) Section 504(b)(6) of the Social Security Act  
8 (42 U.S.C. 704(b)(6)) is amended in each of sub-  
9 paragraphs (A) and (B) by striking “XIX, or XX”  
10 and inserting “or XIX”.

11 (7) Section 1101(a)(1) of the Social Security  
12 Act (42 U.S.C. 1301(a)(1)) is amended by striking  
13 the penultimate sentence.

14 (8) Section 1128(h) of the Social Security Act  
15 (42 U.S.C. 1320a-7(h)) is amended—

16 (A) by adding “or” at the end of para-  
17 graph (2); and

18 (B) by striking paragraph (3) and redesign-  
19 ating paragraph (4) as paragraph (3).

20 (9) Section 1128A(i)(1) of the Social Security  
21 Act (42 U.S.C. 1320a-7a(i)(1)) is amended by strik-  
22 ing “or subtitle 1 of title XX”.

23 (10) Section 1132(a)(1) of the Social Security  
24 Act (42 U.S.C. 1320b-2(a)(1)) is amended by strik-  
25 ing “XIX, or XX” and inserting “or XIX”.

1           (11) Section 1902(e)(13)(F)(iii) of the Social  
2 Security Act (42 U.S.C. 1396a(e)(13)(F)(iii)) is  
3 amended—

4           (A) by striking “EXCLUSIONS” and insert-  
5 ing “EXCLUSION”; and

6           (B) by striking “an agency that determines  
7 eligibility for a program established under the  
8 Social Services Block Grant established under  
9 title XX or”.

10          (12) The heading for title XX of the Social Se-  
11 curity Act is amended by striking “BLOCK  
12 GRANTS TO STATES FOR SOCIAL SERVICES”  
13 and inserting “HEALTH PROFESSIONS DEM-  
14 ONSTRATIONS AND ENVIRONMENTAL  
15 HEALTH CONDITION DETECTION”.

16          (13) The heading for subtitle A of title XX of  
17 the Social Security Act is amended by striking  
18 “**Block Grants to States for Social Serv-**  
19 **ices**” and inserting “**Health Professions**  
20 **Demonstrations and Environmental**  
21 **Health Condition Detection**”.

22          (14) Section 16(k)(5)(B)(i) of the Food and  
23 Nutrition Act of 2008 (7 U.S.C. 2025(k)(5)(B)(i))  
24 is amended by striking “, or title XX,”.



1           (15) Section 402(b)(3) of the Personal Respon-  
2           sibility and Work Opportunity Reconciliation Act of  
3           1996 (8 U.S.C. 1612(b)(3)) is amended by striking  
4           subparagraph (B) and redesignating subparagraph  
5           (C) as subparagraph (B).

6           (16) Section 245A(h)(4)(I) of the Immigration  
7           Reform and Control Act of 1986 (8 U.S.C.  
8           1255a(h)(4)(I)) is amended by striking “, XVI, and  
9           XX” and inserting “and XVI”.

10          (17) Section 17 of the Richard B. Russell Na-  
11          tional School Lunch Act (42 U.S.C. 1766) is amend-  
12          ed—

13                (A) in subsection (a)(2)—

14                   (i) in subparagraph (B)—

15                        (I) by striking “—” and all that  
16                        follows through “(i)”;

17                        (II) by striking “or” at the end  
18                        of clause (i); and

19                        (III) by striking clause (ii); and

20                        (ii) in subparagraph (D)(ii), by strik-  
21                        ing “or title XX”; and

22                (B) in subsection (o)(2)(B)—

23                        (i) by striking “or title XX” each  
24                        place it appears; and

25                        (ii) by striking “or XX”.

1           (18) Section 201(b) of the Indian Child Welfare  
2 Act of 1978 (25 U.S.C. 1931(b)) is amended by  
3 striking “titles IV–B and XX” each place it appears  
4 and inserting “part B of title IV”.

5           (19) Section 3803(e)(2)(C) of title 31, United  
6 States Code, is amended by striking clause (vi) and  
7 redesignating clauses (vii) through (xvi) as clauses  
8 (vi) through (xv), respectively.

9           (20) Section 14502(d)(3) of title 40, United  
10 States Code, is amended—

11                   (A) by striking “and title XX”; and

12                   (B) by striking “, 1397 et seq.”.

13           (21) Section 2006(a)(15) of the Public Health  
14 Service Act (42 U.S.C. 300z-5(a)(15)) is amended  
15 by striking “and title XX”.

16           (22) Section 203(b)(3) of the Older Americans  
17 Act of 1965 (42 U.S.C. 3013(b)(3)) is amended by  
18 striking “XIX, and XX” and inserting “and XIX”.

19           (23) Section 213 of the Older Americans Act of  
20 1965 (42 U.S.C. 3020d) is amended by striking “or  
21 title XX”.

22           (24) Section 306(d) of the Older Americans Act  
23 of 1965 (42 U.S.C. 3026(d)) is amended in each of  
24 paragraphs (1) and (2) by striking “titles XIX and  
25 XX” and inserting “title XIX”.

1           (25) Section 2605 of the Low-Income Home  
2           Energy Assistance Act of 1981 (42 U.S.C. 8624) is  
3           amended in each of subsections (b)(4) and (j) by  
4           striking “under title XX of the Social Security  
5           Act,”.

6           (26) Section 602 of the Child Development As-  
7           sociate Scholarship Assistance Act of 1985 (42  
8           U.S.C. 10901) is repealed.

9           (27) Section 3(d)(1) of the Assisted Suicide  
10          Funding Restriction Act of 1997 (42 U.S.C.  
11          14402(d)(1)) is amended by striking subparagraph  
12          (C) and redesignating subparagraphs (D) through  
13          (K) as subparagraphs (C) through (J), respectively.

14          (c) EFFECTIVE DATE.—The repeals and amend-  
15          ments made by this section shall take effect on October  
16          1, 2012.

Union Calendar No. 330

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

**H. R. 5652**

[Report No. 112-470]

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## **A BILL**

To provide for reconciliation pursuant to section 201 of the concurrent resolution on the budget for fiscal year 2013.

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MAY 9, 2012

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed