

# **H.R. 2874, THE 21<sup>ST</sup> CENTURY FLOOD REFORM ACT**

## **– SECTION-BY-SECTION OF RULES COMMITTEE AINS –**

**NOVEMBER 6, 2017**

*Sponsored by Rep. Sean Duffy, H.R. 2874, the 21<sup>st</sup> Century Flood Reform Act, would achieve reforms to improve the financial stability of the National Flood Insurance Program, to enhance the development of more accurate estimates of flood risk through new technology and better maps, to increase the role of private markets in the management of flood insurance risks, and to provide for alternative methods to insure against flood peril, and for other purposes.*

### **SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION**

#### **TITLE I – POLICYHOLDER PROTECTION AND INFORMATION**

##### *Sec. 101. Extension of National Flood Insurance Program.*

Reauthorizes the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) through September 30, 2022.

##### *Sec. 102. Annual Limitation on Premium Increase.*

Decreases the cap on annual rate increases from 18 to 15 percent; and increase the minimum average chargeable risk premium, within a single risk classification, from 5 percent to 6.5 percent in 0.5 percent annual increments beginning one year after the date of enactment.

##### *Sec. 103. Flood Insurance Affordability Program.*

Authorize states to voluntarily create a state flood insurance affordability program that identify and validate eligible owner-occupants of single family 1-4 unit residences who are unable to pay their chargeable risk premium due to family income. Eligibility, validated using existing Federal income eligibility programs as a guideline, is limited to policyholders with incomes below the threshold of the greater of 150 percent of the state poverty level or 60 percent of the state area median income. At a date certain, as defined by FEMA, the state would forward its validated list to FEMA consisting of all eligible policyholders for whom the state is seeking assistance, along with the recommended type of assistance for each policy. Assistance can be in the form of either (1) capping the amount of chargeable risk premium paid, or (2) limiting the amount of premium increase on an annualized basis. FEMA would calculate the value of the aggregate subsidy cost for eligible policyholders within the state, the cost of which would be recouped through an equally distributed surcharge on all other policyholders within that state.

##### *Sec. 104. Disclosure of Premium Methodology.*

Requires the FEMA Administrator to develop a transparent public process to explain and engage with the public on its methodology to determine annual risk premium rates for NFIP coverage, six months prior to the effective date of risk premium rates. Annual public forums in each of FEMA's Federal regions are required.

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### *Sec. 105. Consideration of Coastal and Inland Locations in Premium Rates.*

Requires the FEMA Administrator, when calculating annual chargeable premium rates, to consider the differences in properties located in local coastal and inland areas.

### *Sec. 106. Monthly Installment Payment of Premiums.*

Until the Administrator promulgates regulations, the Administrator may adopt policies and procedures to finalize the implementation of the monthly installment payment of premiums provision, initially required by the Homeowner Flood Insurance Affordability Act of 2014. For the first year after enactment of this section, the Administrator may charge policyholders who choose to make monthly installment payments a fee not to exceed \$25 annually. No later than 6 months after the date of enactment, the Comptroller General shall submit a report to Congress that sets forth all of the costs associated with the monthly payment premiums. Twelve months after the bill's enactment, the Administrator may adjust the fee charged annually to cover the total cost of the monthly collection of premiums as determined by the report. On an annual basis, the Administrator shall report to Congress the ongoing costs associated with the monthly payment of premiums.

### *Sec. 107. Enhanced Clear Communication of Flood Risks.*

Requires the FEMA Administrator to clearly communicate to all policyholders the full flood risks of their property, the number and dollar value of claims that have been filed over the life of a property, and the effect that filing any future claims would have on the cost of insurance for that property.

### *Sec. 108. Availability of Flood Insurance Information Upon Request.*

Requires the FEMA Administrator to make available, upon request of a policyholder, specific data and information related to the policyholder's property or structure, which includes any historical information, claims payments, flood damages, and whether the property may be required to purchase flood insurance due to previous receipt of federal disaster assistance.

### *Sec. 109. Disclosure of Flood Risk Information Upon Transfer of Property.*

No new NFIP coverage may be provided for any property unless the appropriate government unit requires, by September 30, 2022, either through statutory action or regulation, that the seller or lessor of such property discloses in writing any actual knowledge to a buyer or lessee of (1) prior flood damage to any building located on the property; (2) prior insurance claims for losses covered under the NFIP or private flood insurance; (3) any previous notification regarding the designation of the property as a repetitive loss or severe repetitive loss property and (4) any Federal legal obligation to obtain and maintain flood insurance.

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### *Sec. 110. Voluntary Community-based flood insurance pilot program.*

The Administrator may carry out a community-based flood insurance pilot program to make available, for purchase by participating communities, a single, community-wide flood insurance policy under the NFIP that (1) covers all residential and non-residential properties within the community and (2) satisfies, for all properties within the community, the NFIP mandatory purchase requirement. Participation by a community in the pilot program shall be entirely voluntary on the part of the community. The Administrator shall ensure that a community-wide flood insurance policy under the pilot program incorporates: (1) a mapping requirement for properties covered by the policy; (2) a cap on premiums; (3) a deductible; (4) certification or accreditation of mitigation infrastructure when available and appropriate, (5) a community audit; (6) the Community Rating System; (7) a method of preventing redundant claims payments by the NFIP in the case of a policyholder who is covered by a community-wide policy and an individual policy obtained through the NFIP; (8) coverage for damage arising from flooding that complies with NFIP standards. The Administrator may establish the demonstration program under this section not later than 180 days after bill enactment and the demonstration program shall terminate on September 30, 2022.

### *Sec. 111. Use of replacement cost in determining premium rates.*

The Administrator shall conduct a study to evaluate insurance industry best practices for risk rating and classification, including practices related to replacement cost value in premium rate estimations and developing a feasible implementation plan and projected timeline for including replacement costs value in the estimates of risk premium rates for flood insurance made available under the NFIP. Effective twelve months after the bill's enactment, the Administrator shall submit to Congress a report that contains the results and conclusions of the study. The report shall include an analysis of the recommendations resulting from the study and any potential impacts on the NFIP; a description of any actions taken by the Administrator to implement the study recommendations; and a description of any study recommendations that have been deferred or not acted upon. This section also requires the Administrator to incorporate up-to-date replacement cost values, by structure, when calculating annual chargeable premium rates, as opposed to the current practice that relied upon a national average, over a 1-3 year period.

### *Sec. 112. Cap on premiums.*

Limits the chargeable risk premium of any single family residential property to no more than \$10,000 per year, adjusted for inflation every five years.

### *Sec. 113. Premium rates for certain mitigated properties.*

Authorizes the FEMA Administrator to provide policyholders who are not eligible for preferred risk rate method premiums with credits on how they can reduce their risk premium rates through approved actions to mitigate the flood risk of their property, including innovative mitigation techniques for buildings in dense urban environments and the elevation of mechanical systems.

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### *Sec. 114. Study of flood insurance coverage for units in cooperative housing.*

Requires the FEMA Administrator to conduct a study on the feasibility of offering NFIP coverage of individual dwelling units in cooperative housing developments.

### *Sec. 115. Pilot Program for properties with preexisting conditions.*

Authorizes the FEMA Administrator to create a pilot NFIP program to authorize Write Your Own (WYO) Program insurance companies to inspect pre-existing structural conditions of insured and pre-insured properties that could result in a denial of a flood insurance claim. A report covering any such conditions would be filed with the FEMA Administrator to create a pre-disaster baseline of the conditions that might affect the resolution of future NFIP claims. The NFIP is required to conduct a rigorous study and evaluation and report to Congress no later than December 31, 2021 prior to the pilot sunset on December 31, 2022.

### *Sec. 116. Federal Flood Insurance Advisory Committee.*

Creates a new Technical Insurance Advisory Council consisting of federal, state, and local experts to review the NFIP's insurance practices and propose new standards to FEMA.

### *Sec. 117. Interagency guidance on compliance.*

Twelve months after enactment and every two years thereafter, requires that federal banking agencies update the document entitled "Interagency Questions and Answers Regarding Flood Insurance," which address many flood insurance compliance questions in order to understand any conflicts with FEMA requirements or other industry practices and limitations.

### *Sec. 118. GAO study of claims adjustment practices.*

Requires the Comptroller General of the United States to conduct a study that assesses the policies and practices for adjustment of claims for losses under the NFIP to determine whether the current system impacts the quality of the claims and adversely impacts policyholders.

### *Sec. 119. GAO study of flood insurance coverage treatment of earth movement.*

Requires the Comptroller General of the United States to conduct a study that assesses the treatment of "earth movement and subsidence caused by flooding" on the NFIP and policyholders.

### *Sec. 120. Definitions.*

Defines "Write Your Own Program" as the program under which FEMA enters into a standard arrangement with private property insurance companies to sell contracts for flood insurance coverage under their own business lines of insurance and to adjust and pay claims arising under

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these contracts. The term “Write Your Own Company” means a private property insurance company that participates in FEMA’s WYO Program.

### **TITLE II – INCREASING CONSUMER CHOICE THROUGH PRIVATE MARKET DEVELOPMENT**

#### *Sec. 201. Private flood insurance.*

Updates current law to reinforce and strengthen requirements that flood insurance provided by private sector insurance carriers shall be accepted and considered similar to those policies offered by the NFIP, provided certain conditions are met. Strikes and restates, in part, the current statute with updated language to reflect the recognition of flood policies offered by the NFIP and the private flood insurance market. Identical to current law, restates the mandatory insurance requirement that any building, mobile home or personal property that would be financed by a federally-backed mortgage must have flood insurance if the property is located in an area designated as a special flood hazard.

Clarifies that the coverage amount of flood insurance provided under either a Federal or private policy must be at least equal to the lesser of: the development or project cost of the building, mobile home, or personal property (less estimated land cost); the outstanding principal balance of the federally insured loan secured by the property; or the maximum limit of Federal flood insurance coverage made available with respect to the particular type of property. If the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of required flood insurance need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

Consistent with current law, Federal banking regulators are required to instruct, by regulation, that regulated institutions not make loans secured by real property located in flood zones unless the property is covered by “flood insurance” (Federal or private). This section clarifies that each Federal banking regulator must require regulated financial institutions to accept Federal (NFIP) and private flood insurance as satisfaction of the flood insurance coverage requirement.

Updates current law to require the Government Sponsored Enterprises (GSEs), known as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, to require flood insurance for any real estate or mobile home located in a special flood hazard area and purchased or guaranteed by such entity. This section would also add a new requirement that GSEs accept Federal (NFIP) and private flood insurance as satisfaction of the mandatory flood insurance coverage requirement, provided that the flood insurance coverage meets the requirements under this bill and any requirements established by the Federal Housing Finance Agency, in consultation with the Federal National Mortgage Association, the Federal Home Loan Corporation, the Secretary of Housing and Urban Development, the Government National Mortgage Association and the Secretary of Agriculture relating to the financial strength of such private insurance companies. Such requirements developed by the GSEs shall not affect or

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conflict with any state law, regulation, or procedure concerning the regulation of the business of insurance.

This section also clarifies that mortgages offered, insured, or guaranteed by the Department of Housing and Urban Development, or under Title V of the Housing Act of 1949 related to Rural Housing Service programs, or the Government National Mortgage Association would be required to accept private flood insurance policies.

Defines flood insurance as either “Federal flood insurance” or “private flood insurance.” “Federal flood insurance” is defined as a policy available through the NFIP. “Private flood insurance” is defined as a flood insurance policy that is issued by a state-licensed insurer, or a non-admitted insurer that is not disapproved by the state as a surplus lines insurer, and that complies with the laws and regulations of the state in which the insured property is located. Amends the National Flood Insurance Act of 1968 to allow the coverage of flood peril provided by mutual aid societies, a group created by common ethical or religious beliefs, to satisfy the flood insurance mandatory purchase requirement. The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

Clarifies that the FEMA Administrator shall consider any period during which a property was continuously covered by private flood insurance to be a period of continuous coverage.

### *Sec. 202. Opt-out of mandatory coverage requirement for commercial properties.*

Amends the Flood Disaster Protection Act of 1973 and the National Flood Insurance Act of 1968 to eliminate the NFIP’s mandatory purchase requirement for all commercial and multifamily properties, while preserving the eligibility of commercial and multifamily properties to voluntarily purchase NFIP coverage if they so choose. Residential properties financed by commercial loans would be treated similar to other commercial and multifamily properties.

### *Sec. 203. Elimination of Non-Compete Requirement.*

Eliminates the regulatory restriction that currently prevents insurers participating in the NFIP’s WYO Program from selling both NFIP and private flood insurance policies.

### *Sec. 204. Public Availability of Program Information.*

Requires FEMA to develop an open-source data system to allow public access of all information related to assessing flood risk or identifying and establishing flood elevations and premiums, including, where available, data relating to risk on individual properties and loss ratio information and other information identifying losses under the program. Personally identifiable information shall not be made available; the information provided shall be based on data that identifies properties at the zip code or census block level, and shall include the name of the community and state in which the property is located.

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*Sec. 205. Refund of Premiums Upon Cancellation of Policy Because of Replacement with Private Flood Insurance.*

Requires FEMA to allow policyholders who cancel their NFIP policies during the middle of the policy term to receive a pro-rata refund on their premiums if the policy is replaced with private flood insurance. Excludes properties that have received any taxpayer-funded mitigation assistance through the NFIP's Increased Cost of Compliance program or if a claim has been paid or is pending under the policy term for which the refund is sought.

*Sec. 206. GAO Study of Flood Damage Savings Accounts.*

Requires the Comptroller General of the United States to conduct a study assessing the feasibility and effectiveness of establishing voluntary flood damage savings accounts to reduce flood insurance premiums and eliminate the need for purchase of flood insurance coverage.

*Sec. 207. Demonstration Program for Flood Damage Savings Account.*

Requires the FEMA Administrator to submit to Congress a plan for the implantation of a demonstration program to establish voluntary flood damage savings accounts that takes into consideration the analysis, conclusions, and recommendations developed by the Comptroller General of the United States.

### **TITLE III – MAPPING FAIRNESS**

*Sec. 301. Use of Other Risk Assessment Tools in Determining Premium Rates.*

Requires the FEMA Administrator to use other risk assessment data and tools, including risk assessment models and scores from appropriate sources, in addition to applicable flood rate maps when determining annual chargeable premium rates.

*Sec. 302. Appeals Regarding Existing Flood Maps.*

Creates a new appeals process for States, local governments, or the owners or lessees of real property for whom FEMA has denied a request to update their FEMA-created map to appeal that decision based on new information regarding base flood elevation levels or other flood mitigating factors. The initial appeals process would be through an agency administrative process, with the possibility of a further appeal to the Scientific Resolution Panel. In cases where the appeal is wholly or partially successful, affected policyholders can cancel an impacted policy and are entitled to a refund on their premiums. Moreover, the appellant is entitled to recover reasonable costs for the successful appeal, not to include legal or contingency fees.

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### *Sec. 303. Appeals and Publication of Projected Special Flood Hazard Areas.*

Clarifies that the owner or lessee of real estate adversely affected by the FEMA Administrator's determination of flood elevations and special hazard areas may appeal such determination no later than 90 days after the date of the second publication of a flood insurance rate map. Moreover, this provision clarifies that the FEMA Administrator's determination will become final if there are no appeals during the 90 day period following that second publication.

### *Sec. 304. Communication and Outreach Regarding Map Changes.*

Gives FEMA the ability to expedite the required community notification layover period for communities that wish to accelerate their mapping approval process.

### *Sec. 305. Sharing and Use of Maps and Data.*

Requires the FEMA Administrator to consult and coordinate with the Department of Defense, the United States Geological Survey, and the National Oceanic and Atmospheric Administration to obtain the most recent maps and other data relevant to flood maps.

### *Sec. 306. Community Flood Maps.*

Twelve months after bill enactment, the Technical Mapping Advisory Council (TMAC) shall develop and make recommendations to the FEMA Administrator to establish a set of standards, guidelines, and procedures for state and local governments to develop alternative maps. Subject to certification and approval by the Administrator, the map shall be considered the flood insurance rate map in effect for all purposes of the NFIP, with respect to the area covered by the map.

Until the Administrator promulgates regulations implementing this section, the Administrator may adopt policies and procedures necessary to implement this section without undergoing notice and comment rulemaking.

## **TITLE IV – PROTECTING CONSUMERS AND INDIVIDUALS THROUGH IMPROVED MITIGATION.**

### *Sec. 401. Provision of Community Rating System Premium Credits to Maximum Number of Communities Practicable.*

Requires FEMA to provide communities that have joined its Community Rating System program with appropriate credits in calculating their annual chargeable premium rates 4 when those communities implement or benefit from measures that protect natural and beneficial floodplain functions.



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*Sec. 402. Community accountability for repetitively flooded areas.*

The Administrator shall require any covered community to (1) identify the areas within the community where properties or flood-damaged facilities are located to determine areas repeatedly damaged by floods and to assess the continuing risks to such areas; (2) develop a community-specific plan for mitigating continuing flood risks to such repetitively flooded areas and to submit such plan and plan updates to the Administrator; (3) implement the plan; and (4) make such plan and plan updates in reducing flood risk available to the public.

Any plans developed may be incorporated into flood and hazard mitigation plans developed by the community.

To assist communities under this bill, the Administrator shall, upon request provide covered communities with appropriate data regarding the property addresses and dates of claims associated with insured properties within the community. In making determinations regarding financial assistance, the Administrator may consider the extent to which a community has complied with this bill and is working to remedy problems with addressing repeatedly flooded areas.

Communities that fail to develop or make sufficient progress in executing their plan would be subject to appropriate sanctions, as determined by FEMA. Before imposing any sanctions, the Administrator shall provide the covered community involved with notice of the non-compliance that could result in the imposition of sanctions, and the notice shall include recommendations for actions to bring the covered community into compliance. In determining appropriate sanctions to impose, the Administrator shall consider the resources available to the covered community, including Federal funding, the portion of the covered community that lies within an area having special flood hazards, and other factors that make it difficult for the covered community to conduct mitigation activities for existing flood-prone structures.

A covered community is defined as a community that is participating in the NFIP and (1) has 50 or more repetitive loss structures for each of which, during any 10 year period, two or more claims for payments under flood insurance coverage have been made with a cumulative amount exceeding \$1,000; (2) has 5 or more severe repetitive loss structures for which mitigation activities have not been conducted; or (3) has a public facility or a private non-profit facility that has received federal disaster assistance for repair, restoration, reconstruction, or replacement in connection with more than one flooding event in the most recent 10-year period.

No later than the expiration of the six (6) year period after enactment, and not less than every two (2) years thereafter, the Administrator shall submit a report to Congress regarding the progress of implement plans developed pursuant to this bill.

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### *Sec. 403. Increased cost of compliance coverage.*

Authorizes the FEMA Administrator to supplement its existing Increase Cost of Compliance (ICC) program (which is typically mandatory for many policyholders) coverage of up to \$30,000 with the option of allowing policyholders to purchase additional enhanced ICC coverage of up to \$60,000, as priced accordingly by NFIP. Like the existing ICC coverage, this enhanced ICC coverage would be used to comply with local and State floodplain management requirements by covering the cost of mitigating a building that has been substantially or repetitively damaged by floods. Additionally, the allowable uses of ICC coverage would be expanded to cover certain pre-disaster mitigation costs for certain at-risk properties identified by State or local governments.

## TITLE V – PROGRAM INTEGRITY

### *Sec. 501. Independent Actuarial Review.*

Assigns the FEMA Administrator the statutory responsibility to ensure that the NFIP remains financially sound. Require the FEMA Administrator to provide for an annual independent actuarial study of the NFIP to analyze the financial position of the program based on its long-term estimated losses. Require the FEMA Administrator to transmit the results of that report to Congress, along with the FEMA Administrator's determination of whether there exists an actuarial budget deficit for the NFIP for the year covered in the report and any recommended changes to the program to ensure that the program remains financially sound. Additionally, require the FEMA Administrator to submit quarterly reports to Congress on the changing policyholder composition and risk profile of the NFIP.

### *Sec. 502. Adjustments to Homeowners Flood Insurance Affordability Surcharge.*

Restructures the surcharge originally created by the Homeowner Flood Insurance Affordability Act of 2014 to: (1) increase annual surcharges from \$25 to \$40 for all primary residences; (2) reduce annual surcharge from \$250 to \$125 for non-owner occupied residential properties that are currently subject to Preferred Risk Policy premium rates; and, (3) increase the annual surcharge from \$250 to \$275 for all other non-primary residences.

### *Sec. 503. National Flood Insurance Reserve Fund Compliance.*

Requires the FEMA Administrator to increase the current National Flood Insurance Reserve Fund assessment rate by 1 percent each year until the NFIP achieves its statutorily mandated reserve ratio phase-in requirement of not less than 7.5 percent.

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### *Sec. 504. Designation and Treatment of Multiple-Loss Properties.*

Enhances and consolidates the NFIP's ability to manage and track properties with a history of multiple claims by defining a new "multiple-loss property" term to cover all at-risk properties. Multiple-loss property would encompass three types of properties: (1) a revised definition of repetitive-loss property, meaning a property with two more claims of any amount; (2) a revised definition of severe repetitive loss property, meaning a property with 4 or more separate claims payments at \$5,000 each and the cumulative amount of such claims payments exceeding \$20,000, or at least 2 separate claims payments with the cumulative amount of such claims payments exceeding the value of the structure; and, (3) a new definition of "extreme repetitive-loss property," meaning a property that has incurred flood damage for which at least 2 separate claims have been made with the cumulative amount of such claims payments exceeding 150 percent of the maximum coverage amount 5 available for the structure. Creates a distinction between prior and future flood losses through a new "qualified claims payment" definition, which is a claims payment of any amount with loss that results from a flood that occurs after the date of enactment of the 21<sup>st</sup> Century Flood Reform Act. Any property not currently paying full risk rates and becomes a repetitive loss property due to two qualified claims payments shall be subject to a subsidy phase-out at an annual rate of 10 percent per year. Any such property that has receives a third or more qualified claim payments shall have its subsidy phase-out rate increased to 15 percent per year. Severe repetitive-loss and extreme repetitive loss properties would be subject to a minimum deductible of \$5,000. The Administrator may provide flood insurance coverage for multiple-loss properties only if the owner of the property submits to the Administrator the data and information necessary to determine the property's current risk of flood. The Administrator may deny NFIP coverage if the owner of any extreme repetitive-loss property for which a claim payment for flood was made refuses an offer of mitigation for the property. The Administrator shall clearly communicate to all policyholders for multiple-loss properties the effect on the premium rates charged for the property of filing any further claims with respect to that property and the availability of flood mitigation assistance. Multiple-loss properties would be eligible for prioritized mitigation assistance through the Flood Mitigation Assistance program, with up to a 100 percent cost share subject to the availability of funds. Authorizes \$225 million annually for Flood Mitigation Assistance grants.

### *Sec. 505. Elimination of Coverage for Properties with Excessive Lifetime Claims.*

Beginning 18 months after enactment, prohibits the NFIP from offering insurance to multiple-loss properties that accrue future lifetime loss payments in excess of three times the amount of the replacement value of the structure.

### *Sec. 506. Prohibition of New Coverage For Structures with High-Value Replacement Costs.*

Pursuant to the Administrator's fiduciary duty and responsibility to ensure that the NFIP remain financially sound, require the FEMA Administrator to no longer make available NFIP coverage after January 1, 2021, for 1-4 unit residential structures where the replacement cost of the building (exclusive of the real estate upon which the structure is located) exceeds \$1 million.

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### *Sec. 507. Pay for Performance and Streamlining Costs and Reimbursement.*

The allowance paid to companies participating in the WYO Program shall not be greater than 27.9 percent of the chargeable premium for such coverage. The reduction shall be imposed by equal reductions over the 3-year period beginning on the date of the bill's enactment. Within three years of the bill's enactment, the Administrator shall reduce the costs and unnecessary burdens for the companies participating in the WYO Program by at least 1.5 percent. To meet the reduction, FEMA shall consider savings including (1) indirect payments by the Administrator of premium; (2) eliminating unnecessary communications requirements; (3) reducing the frequency of NFIP changes; (4) simplifying the flood rating system; and (5) other ways of streamlining the NFIP to reduce costs while maintaining customer service and distribution.

### *Sec. 508. Enforcement of Mandatory Purchase Requirements.*

Increases the civil money penalties on federally regulated lenders for failure to comply with the NFIP's mandatory purchase requirements from \$2,000 to \$5,000, and require an annual report from federal banking regulators and the GSEs on the compliance of covered lenders with existing mandatory purchase requirements.

### *Sec. 509. Satisfaction of Mandatory Purchase Requirement in States Allowing All-Perils Policies.*

Provides for the satisfaction of the NFIP's mandatory purchase requirement for those properties located in a state that adopts a state-based requirement for mandatory "all perils" coverage that includes flood insurance.

### *Sec. 510. Flood Insurance Purchase Requirements.*

Updates the existing exception from the NFIP's mandatory purchase requirement under the Flood Disaster Protection Act of 1973 for small dollar loans with a repayment term of 1 year or less from an original outstanding principal balance of \$5,000 or less to an inflation adjusted \$25,000 or less. Additionally, reiterate that nothing in the law prohibits states, localities, and private lenders from requiring the purchase of flood insurance coverage for a structure that is located outside of an area designated by FEMA as a special flood hazard area.

### *Sec. 511. Clarifications; Deadline for Approval of Claims.*

Prior to commencing legal action on any dispute claimed under the NFIP, a policyholder must exhaust all administrative remedies, including submission of disputed claims to appeal. In the case of any claim for damage to or loss of property under the NFIP, the Administrator shall provide that an initial determination regarding approval of a claim for payment or disapproval of the claim be made and notification of the determination be provided to the insured making the claim not later than 120 days beginning upon the day of a signed proof of loss. The 120-day

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deadline may be extended by a single additional period of 15 days in extraordinary circumstance, as determined by the Administrator.

### *Sec. 512. Risk transfer requirement.*

No later than 18 months after bill enactment, the FEMA Administrator shall annually cede a portion of the risk of the NFIP to the private reinsurance or capital markets, as determined by the Administrator, in an amount that (i) is sufficient to maintain the ability of the program to pay claims; and (ii) manages and limits the annual exposure of the NFIP to flood losses in accordance with the probably maximum loss target established each such year. The Administrator shall establish the probable maximum loss target for the NFIP that is expected to occur such fiscal year. In establishing the probably maximum loss target, the Administrator shall consider – (i) the probable maximum loss targets for other U.S. public natural catastrophe insurance program, including State wind pools and earthquake programs; (ii) the probably maximum loss targets of other risk management organization, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; (iii) catastrophic, actuarial, and other appropriate data modeling results of the NFIP portfolio; (iv) the availability of funds in the National Flood Insurance Fund; (v) the availability of funds in the National Flood Insurance Reserve Fund; (vi) the availability of NFIP borrowing authority; (vii) the ability of the Administrator to repay outstanding debt; (viii) amounts appropriated to the Administrator to carry out the NFIP; (ix) reinsurance, capital markets, catastrophe bonds, collateralized reinsurance, resilience bonds, and other insurance-linked securities, and other risk transfer opportunities; and (x) any other factor the Administrator determines appropriate.

Gives the Administrator the ability to enter into multi-year contracts for re-insurance.

### *Sec. 513. GAO Study of Simplification of National Flood Insurance Program.*

The Comptroller General shall conduct a study of the options to simplify flood insurance coverage under the NFIP. The study shall include (1) an analysis of how the administration of the NFIP can be simplified for private flood insurance policyholders, companies, agents, mortgage lenders, and flood insurance vendors; (2) an assessment of ways in which NFIP coverage may be harmonized with private insurance industry standards; (3) identification and analysis of ways in the which the structure of the NFIP may be simplified, including analysis of the effect of eliminating the use of two deductibles under the NFIP, including in claims for flood-damages full replacement cost for property not damaged but rendered unusable by the flooding, and using umbrella policies that allow multiple structures on a property to be insured under the same policy. The GAO shall submit the report to Congress not later than 18 months after the date of enactment.

### *Sec. 514. GAO Study of Simplification of National Flood Insurance Program.*

The Comptroller General shall conduct a study of the implementation and efficacy of the mandatory purchase requirements of section 102 of the Flood Disaster Protection Act of 1973.

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The study shall include an analysis of how federal agencies and their federally regulated lenders comply with, track, share, and report information regarding section 102, as well as ways to improve overall compliance with the current requirements of the law.

### **TITLE VI – ADMINISTRATIVE REFORMS**

#### *Sec. 601. Penalties for fraud and false statements in the National Flood Insurance Program.*

Requires the FEMA Administrator to prohibit false or fraudulent statements connected to the preparation, production, or submission of claims adjustment or engineering reports. Authorize the FEMA Administrator to develop penalties for such violations, including disbarment from participation in the NFIP.

#### *Sec. 602. Enhance policyholder appeals process rights.*

Codifies the due process protections for policyholders established after Superstorm Sandy by FEMA for individuals wishing to appeal a full or partial denial of their NFIP claim by their insurance company, and require FEMA to provide policyholders with a written appeal decision that upholds or overturns the decision of the insurer.

#### *Sec. 603. Deadline for approval of claims.*

Requires the FEMA Administrator to make final determinations regarding the approval of a claim for payment or disapproval of the claim within 90 days of the claim being made. Authorize the FEMA Administrator to extend the 90-day deadline by an additional 15 days when extraordinary circumstances warrant more time.

#### *Sec. 604. Litigation process oversight and reform.*

Provides the FEMA Administrator with additional authorities and responsibilities for overseeing litigation conducted by WYO Program insurance companies acting on behalf of the NFIP. Requires the FEMA Administrator to ensure WYO Program litigation expenses are reasonable, appropriate, and cost-effective, with the authority to deny any expenses that are contrary to those terms. Gives the FEMA Administrator the authority to direct litigation strategy as necessary.

#### *Sec. 605. Prohibition on hiring disbarred attorneys.*

Prohibits the FEMA Administrator from hiring any attorney in connection with the program who has been suspended or disbarred.

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### *Sec. 606. Technical assistance reports.*

Requires the FEMA Administrator to restrict the use of outside technical reports by WYO Program insurance companies' and the NFIP direct servicing agent's as part of specific NFIP claims investigations only to such reports that are final and are prepared in compliance with applicable state and federal laws regarding professional licensure and conduct. Defines "technical assistance report" to mean reports created for the purpose of furnishing technical assistance to an insurance claims adjuster assigned by NFIP, including those by engineers, surveyors, salvors, architects, and certified public accounts.

### *Sec. 607. Improved disclosure requirement for standard flood insurance policies.*

Requires the FEMA Administrator to create a coverage disclosure sheet for policyholders, which outlines the coverage afforded by the NFIP's standard flood insurance policy, including a description of the type of loss that would be covered, a summary of costs associated with the policy, clear communications of the policy's full flood risk determinations. Requires the disclosure to include an acknowledgement of the disclosure by the policyholder and the insurer selling the policy on behalf of the NFIP.

### *Sec. 608. Reserve Fund Amounts.*

Authorizes FEMA to transfer money from the Reserve Fund into the NFIP for the purposes of paying future claims.

### *Sec. 609. Sufficient staffing for Office of Flood Insurance Advocate.*

Requires the FEMA Administrator to ensure the Office of the Flood Insurance Advocate has sufficient staffing within 180 days after enactment.

### *Sec. 610. Limited Exemption For Disaster or Catastrophe Claims Adjusters.*

Clarifies a provision in the Fair Labor Standards Act regarding the activities of claims adjusters after major disasters by codifying longstanding Department of Labor policy.