

[COMMITTEE PRINT]

APRIL 7, 2011

[Showing H.R. 1309 as reported by the Subcommittee on Insurance, Housing, and Community Opportunity on April 6, 2011]

112TH CONGRESS
1ST SESSION

H. R. 1309

To extend the authorization of the national flood insurance program, to achieve reforms to improve the financial integrity and stability of the program, and to increase the role of private markets in the management of flood insurance risk, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2011

Mrs. BIGGERT (for herself, Ms. WATERS, Mr. DOLD, Mr. GARRETT, Mr. STIVERS, and Mrs. CAPITO) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To extend the authorization of the national flood insurance program, to achieve reforms to improve the financial integrity and stability of the program, and to increase the role of private markets in the management of flood insurance risk, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Flood Insurance Re-
5 form Act of 2011”.

6 **SEC. 2. EXTENSIONS.**

7 (a) EXTENSION OF PROGRAM.—Section 1319 of the
8 National Flood Insurance Act of 1968 (42 U.S.C. 4026)
9 is amended by striking “September 30, 2011” and insert-
10 ing “September 30, 2016”.

11 (b) EXTENSION OF FINANCING.—Section 1309(a) of
12 such Act (42 U.S.C. 4016(a)) is amended by striking
13 “September 30, 2011” and inserting “September 30,
14 2016”.

15 **SEC. 3. MANDATORY PURCHASE.**

16 (a) AUTHORITY TO TEMPORARILY SUSPEND MANDA-
17 TORY PURCHASE REQUIREMENT.—

18 (1) IN GENERAL.—Section 102 of the Flood
19 Disaster Protection Act of 1973 (42 U.S.C. 4012a)
20 is amended by adding at the end the following new
21 subsections:

22 “(i) AUTHORITY TO TEMPORARILY SUSPEND MAN-
23 DATORY PURCHASE REQUIREMENT.—

24 “(1) FINDING BY ADMINISTRATOR THAT AREA
25 IS AN ELIGIBLE AREA.—For any area, upon a re-

1 quest submitted to the Administrator by a local gov-
2 ernment authority having jurisdiction over any por-
3 tion of the area, the Administrator shall make a
4 finding of whether the area is an eligible area under
5 paragraph (3). If the Administrator finds that such
6 area is an eligible area, the Administrator shall, in
7 the discretion of the Administrator, designate a pe-
8 riod during which such finding shall be effective,
9 which shall not be longer in duration than 12
10 months.

11 “(2) SUSPENSION OF MANDATORY PURCHASE
12 REQUIREMENT.—If the Administrator makes a find-
13 ing under paragraph (1) that an area is an eligible
14 area under paragraph (3), during the period speci-
15 fied in the finding, the designation of such eligible
16 area as an area having special flood hazards shall
17 not be effective for purposes of subsection (a), (b),
18 and (e) of this section, and section 202(a) of this
19 Act. Nothing in this paragraph may be construed to
20 prevent any lender, servicer, regulated lending insti-
21 tution, Federal agency lender, the Federal National
22 Mortgage Association, or the Federal Home Loan
23 Mortgage Corporation, at the discretion of such enti-
24 ty, from requiring the purchase of flood insurance
25 coverage in connection with the making, increasing,

1 extending, or renewing of a loan secured by im-
2 proved real estate or a mobile home located or to be
3 located in such eligible area during such period or
4 a lender or servicer from purchasing coverage on be-
5 half of a borrower pursuant to subsection (e).

6 “(3) ELIGIBLE AREAS.—An eligible area under
7 this paragraph is an area that is designated or will,
8 pursuant to any issuance, revision, updating, or
9 other change in flood insurance maps that takes ef-
10 fect on or after the date of the enactment of the
11 Flood Insurance Reform Act of 2011, become des-
12 ignated as an area having special flood hazards and
13 that meets any one of the following 3 requirements:

14 “(A) AREAS WITH NO HISTORY OF SPE-
15 CIAL FLOOD HAZARDS.—The area does not in-
16 clude any area that has ever previously been
17 designated as an area having special flood haz-
18 ards.

19 “(B) AREAS WITH FLOOD PROTECTION
20 SYSTEMS UNDER IMPROVEMENTS.—The area
21 was intended to be protected by a flood protec-
22 tion system—

23 “(i) that has been decertified as pro-
24 viding protection for the 100-year fre-
25 quency flood standard;

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

3 “(iii) for which the Administrator has
4 determined measurable progress toward
5 completion of such improvement, construc-
6 tion, reconstruction is being made and to-
7 ward securing financial commitments suffi-
8 cient to fund such completion.

9 “(C) AREAS FOR WHICH APPEAL HAS
10 BEEN FILED.—An area for which a community
11 has appealed—

12 “(i) designation of the area as having
13 special flood hazards in a timely manner
14 under section 1363; or

15 “(ii) any decertification or
16 deaccreditation of a dam, levee, or other
17 flood protection system or the level of pro-
18 tection afforded by a dam, levee, or sys-
19 tem.

20 “(4) EXTENSION OF DELAY.—Upon a request
21 submitted by a local government authority having
22 jurisdiction over any portion of the eligible area, the
23 Administrator may extend the period during which a
24 finding under paragraph (1) shall be effective, ex-
25 cept that—

1 “(A) each such extension under this para-
2 graph shall not be for a period exceeding 12
3 months; and

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

6 “(5) RULE OF CONSTRUCTION.—Nothing in
7 this subsection may be construed to affect the appli-
8 cability of a designation of any area as an area hav-
9 ing special flood hazards for purposes of the avail-
10 ability of flood insurance coverage, criteria for land
11 management and use, notification of flood hazards,
12 eligibility for mitigation assistance, or any other pur-
13 pose or provision not specifically referred to in para-
14 graph (2).

15 “(6) REPORTS.—The Administrator shall, in
16 each annual report submitted pursuant to section
17 1320, include information identifying each finding
18 under paragraph (1) by the Administrator during
19 the preceding year that an area is an area having
20 special flood hazards, the basis for each such find-
21 ing, any extensions pursuant to paragraph (4) of the
22 periods of effectiveness of such findings, and the
23 reasons for such extensions.”.

24 “(2) NO REFUNDS.—Nothing in this subsection
25 or the amendments made by this subsection may be

1 construed to authorize or require any payment or re-
2 fund for flood insurance coverage purchased for any
3 property that covered any period during which such
4 coverage is not required for the property pursuant to
5 the applicability of the amendment made by para-
6 graph (1).

7 (b) TERMINATION OF FORCE-PLACED INSURANCE.—
8 Section 102(e) of the Flood Disaster Protection Act of
9 1973 (42 U.S.C. 4012a(e)) is amended—

10 (1) by redesignating paragraphs (3) and (4) as
11 paragraphs (5) and 6), respectively; and

12 (2) by adding inserting after paragraph (2) the
13 following new paragraphs:

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

19 “(A) terminate the force-placed insurance;
20 and

21 “(B) refund to the borrower all force-
22 placed insurance premiums paid by the bor-
23 rower during any period during which the bor-
24 rower’s flood insurance coverage and the force-
25 placed flood insurance coverage were each in ef-

1 fect, and any related fees charged to the bor-
2 rower with respect to the force-placed insurance
3 during such period.

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

12 **SEC. 4. REFORMS OF COVERAGE TERMS.**

13 (a) MINIMUM DEDUCTIBLES FOR CLAIMS.—Section
14 1312 of the National Flood Insurance Act of 1968 (42
15 U.S.C. 4019) is amended—

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

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

20 “(b) MINIMUM ANNUAL DEDUCTIBLES.—

21 “(1) SUBSIDIZED RATE PROPERTIES.—For any
22 structure that is covered by flood insurance under
23 this title, and for which the chargeable rate for such
24 coverage is less than the applicable estimated risk
25 premium rate under section 1307(a)(1) for the area

1 (or subdivision thereof) in which such structure is
2 located, the minimum annual deductible for damage
3 to or loss of such structure shall be \$2,000.

4 “(2) ACTUARIAL RATE PROPERTIES.—For any
5 structure that is covered by flood insurance under
6 this title, for which the chargeable rate for such cov-
7 erage is not less than the applicable estimated risk
8 premium rate under section 1307(a)(1) for the area
9 (or subdivision thereof) in which such structure is
10 located, the minimum annual deductible for damage
11 to or loss of such structure shall be \$1,000.”.

12 (b) INDEXING OF MAXIMUM COVERAGE LIMITS.—
13 Subsection (b) of section 1306 of the National Flood In-
14 surance Act of 1968 (42 U.S.C. 4013(b)) is amended—

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

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

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

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

23 “(8) each of the dollar amount limitations
24 under paragraphs (2), (3), (4), (5), and (6) shall be
25 adjusted effective January 1 of each year (com-

1 mencing in 2012), such adjustments shall be cal-
2 culated using the percentage change in such infla-
3 tionary index as the Administrator shall, by regula-
4 tion, specify, and the dollar amount of any such ad-
5 justment shall be rounded to the next lower dollar;
6 and the Administrator shall cause to be published in
7 the Federal Register any adjustments under this
8 paragraph to such dollar amount limitations.”.

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

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

24 “(A) purchase of such coverage shall be at
25 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 “(6) the Administrator may provide that, in the
20 case of any commercial property or other residential
21 property, including multifamily rental property, cov-
22 erage for losses resulting from any partial or total
23 interruption of the insured’s business caused by
24 damage to, or loss of, such property from a flood
25 may be made available to every insured upon re-

1 newal and every applicant, up to a total amount of
2 \$20,000 per property, except that—

3 “(A) purchase of such coverage shall be at
4 the option of the insured;

5 “(B) any such coverage shall be made
6 available only at chargeable rates that are not
7 less than the estimated premium rates for such
8 coverage determined in accordance with section
9 1307(a)(1); and

10 “(C) the Administrator may make such
11 coverage available only if the Administrator
12 makes a determination and causes notice of
13 such determination to be published in the Fed-
14 eral Register that—

15 “(i) a competitive private insurance
16 market for such coverage does not exist;
17 and

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

23 (d) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR
24 RESIDENTIAL PROPERTIES.—Section 1306 of the Na-
25 tional Flood Insurance Act of 1968 (42 U.S.C. 4013) is

1 amended by adding at the end the following new sub-
2 section:

3 “(d) PAYMENT OF PREMIUMS IN INSTALLMENTS FOR
4 RESIDENTIAL PROPERTIES.—

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

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

23 **SEC. 5. REFORMS OF PREMIUM RATES.**

24 (a) INCREASE IN ANNUAL LIMITATION ON PREMIUM
25 INCREASES.—Section 1308(e) of the National Flood In-

1 surance Act of 1968 (42 U.S.C. 4015(e)) is amended by
2 striking “10 percent” and inserting “20 percent”.

3 (b) PHASE-IN OF RATES FOR NEWLY MAPPED
4 AREAS.—

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

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

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

13 (C) by adding at the end the following new
14 subsection:

15 “(g) 5-YEAR PHASE-IN OF FLOOD INSURANCE
16 RATES FOR NEWLY MAPPED AREAS.—

17 “(1) 50 PERCENT RATE FOR INITIAL YEAR.—

18 Notwithstanding subsection (c) or any other provi-
19 sion of law relating to chargeable risk premium rates
20 for flood insurance coverage under this title, in the
21 case of any area that was not previously designated
22 as an area having special flood hazards and that,
23 pursuant to any issuance, revision, updating, or
24 other change in flood insurance maps, becomes des-
25 ignated as such an area, during the 12-month period

1 that begins upon the date that such maps, as issued,
2 revised, update, or otherwise changed, become effective,
3 the chargeable premium rate for flood insurance
4 under this title with respect to any property
5 that is located within such area shall be 50 percent
6 of the chargeable risk premium rate otherwise applicable
7 under this title to the property.

8 “(2) PHASE-IN OF FULL ACTUARIAL RATES.—
9 With respect to any area described in paragraph (1),
10 upon the expiration of the 12-month period under
11 paragraph (1) for such area, the Administrator shall
12 increase the chargeable risk premium rates for flood
13 insurance under this title for properties in such area
14 by 20 percent, and by 20 percent upon the expiration
15 of each successive 12-month period thereafter
16 until the chargeable risk premium rates comply with
17 subsection (c).”.

18 (2) REGULATION OR NOTICE.—The Administrator
19 of the Federal Emergency Management Agency shall issue
20 an interim final rule or notice to implement this subsection
21 and the amendments made by this subsection as soon as
22 practicable after the date of the enactment of this Act.

24 (c) PHASE-IN OF ACTUARIAL RATES FOR CERTAIN
25 PROPERTIES.—

1 (1) IN GENERAL.—Section 1308(c) of the Na-
2 tional Flood Insurance Act of 1968 (42 U.S.C.
3 4015(c)) is amended—

4 (A) by redesignating paragraph (2) as
5 paragraph (7); and

6 (B) by inserting after paragraph (1) the
7 following new paragraphs:

8 “(2) COMMERCIAL PROPERTIES.—Any nonresi-
9 dential property.

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

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

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

24 “(B) is purchased after the effective date
25 of this paragraph, pursuant to section

1 5(e)(3)(A) of the Flood Insurance Reform Act
2 of 2011.

3 “(5) HOMES DAMAGED OR IMPROVED.—Any
4 property that, on or after the date of the enactment
5 of the Flood Insurance Reform Act of 2011, has ex-
6 perienced or sustained—

7 “(A) substantial damage exceeding 50 per-
8 cent of the fair market value of such property;
9 or

10 “(B) substantial improvement exceeding
11 30 percent of the fair market value of such
12 property.

13 “(6) HOMES WITH MULTIPLE CLAIMS.—Any se-
14 vere repetitive loss property (as such term is defined
15 in section 1361A(b)).”.

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

19 (A) in subsection (c)—

20 (i) in the matter preceding paragraph
21 (1), by striking “the limitations provided
22 under paragraphs (1) and (2)” and insert-
23 ing “subsection (e)”; and

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

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

7 (3) EFFECTIVE DATE AND TRANSITION.—

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

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

17 (i) INCREASE OF RATES OVER TIME.—

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

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

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

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

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

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

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

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

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

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

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

21 (A) in subsection (e)—

22 (i) in the first sentence, by striking
23 “construction of a flood protection system”
24 and inserting “construction, reconstruc-
25 tion, or improvement of a flood protection

1 system (without respect to the level of Fed-
2 eral investment or participation)”; and

3 (ii) in the second sentence—

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

9 (II) by inserting “based on the
10 present value of the completed sys-
11 tem” after “has been expended”; and

12 (B) in subsection (f)—

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

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

22 (iii) in paragraph (1), by striking “a
23 Federal agency in consultation with the
24 local project sponsor” and inserting “the

1 entity or entities that own, operate, main-
2 tain, or repair such system”.

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

13 **SEC. 6. TECHNICAL MAPPING ADVISORY COUNCIL.**

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

17 (b) MEMBERSHIP.—

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

20 (A) the Administrator of the Federal
21 Emergency Management Agency (in this section
22 referred to as the “Administrator”), or the des-
23 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 ignee 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) 9 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; and

15 (ix) a member of a recognized profes-
16 sional association or organization rep-
17 resenting flood hazard determination firms.

18 (2) QUALIFICATIONS.—Members of the Council
19 shall be appointed based on their demonstrated
20 knowledge and competence regarding surveying, car-
21 tography, remote sensing, geographic information
22 systems, or the technical aspects of preparing and
23 using flood insurance rate maps. In appointing
24 members under paragraph (1)(I), the Administrator
25 shall ensure that the membership of the Council has

1 a balance of Federal, State, local, and private mem-
2 bers.

3 (c) DUTIES.—

4 (1) NEW MAPPING STANDARDS.—Not later than
5 the expiration of the 12-month period beginning
6 upon the date of the enactment of this Act, the
7 Council shall develop and submit to the Adminis-
8 trator and the Congress proposed new mapping
9 standards for 100-year flood insurance rate maps
10 used under the national flood insurance program
11 under the National Flood Insurance Act of 1968. In
12 developing such proposed standards the Council
13 shall—

14 (A) ensure that the flood insurance rate
15 maps reflect true risk, including graduated risk
16 that better reflects risk to each property; such
17 reflection of risk should be at the smallest geo-
18 graphic level possible (but not necessarily prop-
19 erty-by-property) to ensure that communities
20 are mapped in a manner that takes into consid-
21 eration different risk levels within the commu-
22 nity;

23 (B) ensure that flood insurance rate maps
24 reflect current land use and topography and in-

1 corporate the most current and accurate ground
2 elevation data;

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

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

18 (E) consider whether to use vertical posi-
19 tioning (as defined by the Administrator) for
20 flood insurance rate maps;

21 (F) ensure that flood insurance rate maps
22 differentiate between a property that is located
23 in a flood zone and a structure located on such
24 property that is not at the same risk level for

1 flooding as such property due to the elevation
2 of the structure;

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

7 (H) consider how to incorporate the new
8 standards proposed pursuant to this paragraph
9 in existing mapping efforts.

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

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

1 (d) PROHIBITION ON COMPENSATION.—Members of
2 the Council shall receive no additional compensation by
3 reason of their service on the Council.

4 (e) CHAIRPERSON.—The Administrator shall serve as
5 the Chairperson of the Council.

6 (f) STAFF.—

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

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

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

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

1 **SEC. 7. FEMA INCORPORATION OF NEW MAPPING PROTO-**
2 **COLS.**

3 (a) NEW RATE MAPPING STANDARDS.—Not later
4 than the expiration of the 6-month period beginning upon
5 submission by the Technical Mapping Advisory Council
6 under section 6 of the proposed new mapping standards
7 for flood insurance rate maps used under the national
8 flood insurance program developed by the Council pursu-
9 ant to section 6(c), the Administrator of the Federal
10 Emergency Management Agency (in this section referred
11 to as the “Administrator”) shall establish new standards
12 for such rate maps based on such proposed new standards
13 and the recommendations of the Council.

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

17 (1) delineate and include in any such rate
18 maps—

19 (A) all areas located within the 100-year
20 flood plain;

21 (B) all areas located within the 250-year
22 floodplain;

23 (C) areas of residual risk, including areas
24 behind levees, dams, and other man-made struc-
25 tures; and

1 (D) areas subject to graduated and other
2 risk levels, to the maximum extent possible;

3 (2) ensure that any such rate maps—

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

6 (B) reflect current land use and topog-
7 raphy and incorporate the most current and ac-
8 curate ground level data;

9 (C) take into consideration the impacts
10 and use of fill and the flood risks associated
11 with altered hydrology;

12 (D) differentiate between a property that
13 is located in a flood zone and a structure lo-
14 cated on such property that is not at the same
15 risk level for flooding as such property due to
16 the elevation of the structure;

17 (E) identify and incorporate natural fea-
18 tures and their associated flood protection bene-
19 fits into mapping and rates; and

20 (F) identify, analyze, and incorporate the
21 impact of significant changes to building and
22 development throughout any river or costal
23 water system, including all tributaries, which
24 may impact flooding in areas downstream; and

1 (3) provide that such rate maps are developed
2 on a watershed basis.

3 (c) REPORT.—If, in establishing new standards for
4 flood insurance rate maps pursuant to subsection (a) of
5 this section, the Administrator does not implement all of
6 the recommendations of the Council made under the pro-
7 posed new mapping standards developed by the Council
8 pursuant to section 6(c), upon establishment of the new
9 standards the Administrator shall submit a report to the
10 Committee on Financial Services of the House of Rep-
11 resentatives and the Committee on Banking, Housing, and
12 Urban Affairs of the Senate specifying which such rec-
13 ommendations were not adopted and explaining the rea-
14 sons such recommendations were not adopted.

15 (d) IMPLEMENTATION.—The Administrator shall, not
16 later than the expiration of the 6-month period beginning
17 upon establishment of the new standards for flood insur-
18 ance rate maps pursuant to subsection (a) of this section,
19 commence use of the new standards and updating of flood
20 insurance rate maps in accordance with the new stand-
21 ards. Not later than the expiration of the 5-year period
22 beginning upon the establishment of such new standards,
23 the Administrator shall complete updating of all flood in-
24 surance rate maps in accordance with the new standards,

1 subject to the availability of sufficient amounts for such
2 activities provided in appropriation Acts.

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

5 (1) SUBMISSION OF ELEVATION SURVEY.—Sub-
6 ject to paragraphs (2) and (3), subsections (a), (b),
7 and (e) of section 102 of the Flood Disaster Protec-
8 tion Act of 1973 (42 U.S.C. 4012a), and section
9 202(a) of such Act, shall not apply to a property lo-
10 cated in an area designated as having a special flood
11 hazard if the owner of such property submits to the
12 Administrator an elevation survey for such property
13 showing that the lowest level of the primary resi-
14 dence on such property is at an elevation that is at
15 least three feet higher than the elevation of the 100-
16 year flood plain.

17 (2) REVIEW OF SURVEY.—The Administrator
18 shall accept as conclusive each elevation survey sub-
19 mitted under paragraph (1) unless the Adminis-
20 trator conducts a subsequent elevation survey and
21 determines that the lowest level of the primary resi-
22 dence on the property in question is not at an ele-
23 vation that is at least three feet higher than the ele-
24 vation of the 100-year flood plain. The Adminis-

1 trator shall provide any such subsequent elevation
2 survey to the owner of such property.

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

8 **SEC. 8. PRIVATIZATION INITIATIVES.**

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

21 (b) **PRIVATE RISK-MANAGEMENT INITIATIVES.**—

22 (1) **AUTHORITY.**—The Administrator of the
23 Federal Emergency Management Agency may carry
24 out such private risk-management initiatives under
25 the national flood insurance program as the Admin-

1 istrator considers appropriate to determine the ca-
2 pacity of private insurers, reinsurers, and financial
3 markets to assist communities, on a voluntary basis
4 only, in managing the full range of financial risks
5 associated with flooding.

6 (2) ASSESSMENT.—Not later than the expira-
7 tion of the 6-month period beginning on the date of
8 the enactment of this Act, the Administrator shall
9 assess the capacity of the private reinsurance, cap-
10 ital, and financial markets by seeking proposals to
11 assume a portion of the program’s insurance risk
12 and submit to the Congress a report describing the
13 response to such request for proposals and the re-
14 sults of such assessment.

15 (c) REINSURANCE.—The National Flood Insurance
16 Act of 1968 is amended—

17 (1) in section 1331(a)(2) (42 U.S.C.
18 4051(a)(2)), by inserting “, including as reinsurance
19 of insurance coverage provided by the flood insur-
20 ance program” before “, on such terms”;

21 (2) in section 1332(c)(2) (42 U.S.C.
22 4052(c)(2)), by inserting “or reinsurance” after
23 “flood insurance coverage”;

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

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

1 (B) by adding at the end the following new
2 paragraph:

3 “(2) The Director is authorized to secure reinsurance
4 coverage of coverage provided by the flood insurance pro-
5 gram from private market insurance, reinsurance, and
6 capital market sources at rates and on terms determined
7 by the Director to be reasonable and appropriate in an
8 amount sufficient to maintain the ability of the program
9 to pay claims and that minimizes the likelihood that the
10 program will utilize the borrowing authority provided
11 under section 1309.”;

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

13 (A) in the matter preceding paragraph (1),
14 by inserting “, or for purposes of securing rein-
15 surance of insurance coverage provided by the
16 program,” before “of any or all of”;

17 (B) in paragraph (1)—

18 (i) by striking “estimating” and in-
19 serting “Estimating”; and

20 (ii) by striking the semicolon at the
21 end and inserting a period;

22 (C) in paragraph (2)—

23 (i) by striking “receiving” and insert-
24 ing “Receiving”; and

1 (ii) by striking the semicolon at the
2 end and inserting a period;

3 (D) in paragraph (3)—

4 (i) by striking “making” and inserting
5 “Making”; and

6 (ii) by striking “; and” and inserting
7 a period;

8 (E) in paragraph (4)—

9 (i) by striking “otherwise” and insert-
10 ing “Otherwise”; and

11 (ii) by redesignating such paragraph
12 as paragraph (5); and

13 (F) by inserting after paragraph (3) the
14 following new paragraph:

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

17 (5) in section 1370(a)(3) (42 U.S.C.
18 4121(a)(3)), by inserting before the semicolon at the
19 end the following: “, is subject to the reporting re-
20 quirements of the Securities Exchange Act of 1934,
21 pursuant to section 13(a) or 15(d) of such Act (15
22 U.S.C. 78m(a), 78o(d)), or is authorized by the Di-
23 rector to assume reinsurance on risks insured by the
24 flood insurance program”.

1 **SEC. 9. FEMA ANNUAL REPORT ON INSURANCE PROGRAM.**

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

4 (1) in the section heading, by striking “REPORT
5 TO THE PRESIDENT” and inserting “ANNUAL RE-
6 PORT TO CONGRESS”;

7 (2) in subsection (a)—

8 (A) by striking “biennially”;

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

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

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

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

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

1 **SEC. 10. MITIGATION ASSISTANCE.**

2 Subsection (e) of section 1366 of the National Flood
3 Insurance Act of 1968 (42 U.S.C. 4104c(e)) is amended
4 by adding at the end the following new paragraph:

5 “(6) **ELIGIBILITY OF DEMOLITION AND RE-**
6 **BUILDING OF PROPERTIES.**—The Administrator
7 shall consider as an eligible activity the demolition
8 and rebuilding of properties to at least base flood
9 levels or higher, if required by the Administrator or
10 if required by any State or local ordinance, and in
11 accordance with project implementation criteria es-
12 tablished by the Administrator.”.

13 **SEC. 11. NOTIFICATION TO HOMEOWNERS REGARDING**
14 **MANDATORY PURCHASE REQUIREMENT AP-**
15 **PLICABILITY AND RATE PHASE-INS.**

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

19 “(f) **ANNUAL NOTIFICATION.**—

20 “(1) **IN GENERAL.**—The Director, in consulta-
21 tion with affected communities, shall establish and
22 carry out a plan to notify residents of areas having
23 special flood hazards, on an annual basis—

24 “(A) that they reside in such an area;

25 “(B) of the geographical boundaries of
26 such area;

1 “(C) of whether section 1308(h) of the Na-
2 tional Flood Insurance Act of 1968 applies to
3 properties within such area;

4 “(D) of the provisions of section 102 re-
5 quiring purchase of flood insurance coverage for
6 properties located in such an area, including the
7 date on which such provisions apply with re-
8 spect to such area, taking into consideration
9 section 102(i); and

10 “(E) of a general estimate of what similar
11 homeowners in similar areas typically pay for
12 flood insurance coverage, taking into consider-
13 ation section 1308(g) of the National Flood In-
14 surance Act of 1968.

15 “(2) NO CAUSE OF ACTION.—No cause of ac-
16 tion shall exist and no claim may be brought against
17 the United States for a violation of paragraph (1).”.

18 **SEC. 12. TECHNICAL CORRECTIONS.**

19 (a) FLOOD DISASTER PROTECTION ACT OF 1973.—
20 The Flood Disaster Protection Act of 1973 (42 U.S.C.
21 4002 et seq.) is amended—

22 (1) by striking “Director” each place such term
23 appears, except in section 102(f)(3) (42 U.S.C.
24 4012a(f)(3)), and inserting “Administrator”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(26) to supplement existing State or local
4 funding for administration of building code enforce-
5 ment by local building code enforcement depart-
6 ments, including for increasing staffing, providing
7 staff training, increasing staff competence and pro-
8 fessional qualifications, and supporting individual
9 certification or departmental accreditation, and for
10 capital expenditures specifically dedicated to the ad-
11 ministration of the building code enforcement de-
12 partment, except that, to be eligible to use amounts
13 as provided in this paragraph—

14 “(A) a building code enforcement depart-
15 ment shall provide matching, non-Federal funds
16 to be used in conjunction with amounts used
17 under this paragraph in an amount—

18 “(i) in the case of a building code en-
19 forcement department serving an area with
20 a population of more than 50,000, equal to
21 not less than 50 percent of the total
22 amount of any funds made available under
23 this title that are used under this para-
24 graph;

1 “(ii) in the case of a building code en-
2 forcement department serving an area with
3 a population of between 20,001 and
4 50,000, equal to not less than 25 percent
5 of the total amount of any funds made
6 available under this title that are used
7 under this paragraph; and

8 “(iii) in the case of a building code
9 enforcement department serving an area
10 with a population of less than 20,000,
11 equal to not less than 12.5 percent of the
12 total amount of any funds made available
13 under this title that are used under this
14 paragraph;

15 except that the Secretary may waive the match-
16 ing fund requirements under this subparagraph,
17 in whole or in part, based upon the level of eco-
18 nomic distress of the jurisdiction in which is lo-
19 cated the local building code enforcement de-
20 partment that is using amounts for purposes
21 under this paragraph, and shall waive such
22 matching fund requirements in whole for any
23 recipient jurisdiction that has dedicated all
24 building code permitting fees to the conduct of
25 local building code enforcement; and

1 “(B) any building code enforcement de-
2 partment using funds made available under this
3 title for purposes under this paragraph shall
4 empanel a code administration and enforcement
5 team consisting of at least 1 full-time building
6 code enforcement officer, a city planner, and a
7 health planner or similar officer.”.

8 **SEC. 14. NOTIFICATION TO TENANTS OF AVAILABILITY OF**
9 **CONTENTS INSURANCE.**

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

13 **“SEC. 1308A. NOTIFICATION TO TENANTS OF AVAILABILITY**
14 **OF CONTENTS INSURANCE.**

15 “(a) IN GENERAL.—The Director shall, upon enter-
16 ing into a contract for flood insurance coverage under this
17 title for any property—

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

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

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

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

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

10 “(3) of the maximum amount of such coverage
11 for contents available under this title at that time;
12 and

13 “(4) of where to obtain information regarding
14 how to obtain such coverage, including a telephone
15 number, mailing address, and Internet site of the
16 Director where such information is available.

17 “(c) NO CAUSE OF ACTION.—No cause of action
18 shall exist and no claim may be brought against the
19 United States for a violation of this section.”.

20 **SEC. 15. NOTICE OF AVAILABILITY OF FLOOD INSURANCE**
21 **AND ESCROW IN RESPA GOOD FAITH ESTI-**
22 **MATE.**

23 Subsection (c) of section 5 of the Real Estate Settle-
24 ment Procedures Act of 1974 (12 U.S.C. 2604(c)) is
25 amended by adding at the end the following new sentence:

1 “Each such good faith estimate shall include the following
2 conspicuous statements and information: (1) that flood in-
3 surance coverage for residential real estate is generally
4 available under the national flood insurance program
5 whether or not the real estate is located in an area having
6 special flood hazards and that, to obtain such coverage,
7 a home owner or purchaser should contact the national
8 flood insurance program; (2) a telephone number and a
9 location on the Internet by which a home owner or pur-
10 chaser can contact the national flood insurance program;
11 and (3) that the escrowing of flood insurance payments
12 is required for many loans under section 102(d) of the
13 Flood Disaster Protection Act of 1973, and may be a con-
14 venient and available option with respect to other loans.
15 No cause of action shall exist and no claim may be brought
16 against the United States for a violation of the preceding
17 sentence.”.