

## Calendar No. 498

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 3589****[Report No. 109-271]**

To amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 28, 2006

Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, 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; TABLE OF CONTENTS.**

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

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

- Sec. 1. Short title; Table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Reform of premium rate structure.
- Sec. 5. Mandatory coverage areas.
- Sec. 6. Premium adjustment.
- Sec. 7. State chartered financial institutions.
- Sec. 8. Enforcement.
- Sec. 9. Escrow of flood insurance payments.
- Sec. 10. Financing of funds from the Treasury.
- Sec. 11. Borrowing authority debt forgiveness.
- Sec. 12. Minimum deductibles for claims under the National Flood Insurance Program.
- Sec. 13. Considerations in determining chargeable premium rates.
- Sec. 14. Reserve fund.
- Sec. 15. Repayment plan for borrowing authority.
- Sec. 16. Technical Mapping Advisory Council.
- Sec. 17. National Flood Mapping Program.
- Sec. 18. Removal of limitation on State contributions for updating flood maps.
- Sec. 19. Nonmandatory participation.
- Sec. 20. Notice of flood insurance availability under RESPA.
- Sec. 21. Testing of new floodproofing technologies.
- Sec. 22. Participation in State disaster claims mediation programs.
- Sec. 23. Reiteration of FEMA responsibilities under the 2004 Reform Act.
- Sec. 24. Studies, Audits, and Reports.

3 **SEC. 2. FINDINGS.**

4 Congress finds that—

- 5 (1) the flood insurance claims resulting from
- 6 the hurricane season of 2005 will likely exceed all
- 7 previous claims paid by the National Flood Insur-
- 8 ance Program;
- 9 (2) the continuation of subsidized premium
- 10 rates undermines the financial solvency of the Na-
- 11 tional Flood Insurance Fund;
- 12 (3) the presence of subsidized premium rates
- 13 encourages families to continue residing in high risk

1 areas, often without appropriate mitigation activi-  
2 ties;

3 (4) substantial flooding occurs outside of exist-  
4 ing special flood hazard areas;

5 (5) recent events throughout the country involv-  
6 ing areas behind man-made structures, known as  
7 “residual risk” areas, have produced catastrophic  
8 losses;

9 (6) although such man-made structures produce  
10 an added element of safety and therefore lessen the  
11 probability that a disaster will occur, they are never-  
12 theless susceptible to catastrophic loss, even though  
13 such areas at one time were not included within the  
14 100-year floodplain; and

15 (7) voluntary participation in the National  
16 Flood Insurance Program has been minimal and  
17 many families residing outside the 100-year flood-  
18 plain remain unaware of the potential risk to their  
19 lives and property.

20 **SEC. 3. DEFINITIONS.**

21 (a) IN GENERAL.—In this Act, the following defini-  
22 tions shall apply:

23 (1) NATIONAL FLOOD INSURANCE PROGRAM.—  
24 The term “National Flood Insurance Program”  
25 means the program established under the National

1 Flood Insurance Act of 1968 (42 U.S.C. 4011 et  
2 seq.).

3 (2) 100-YEAR FLOODPLAIN.—The term “100-  
4 year floodplain” means that area which is subject to  
5 inundation from a flood having a 1 percent chance  
6 of being equaled or exceeded in any given year.

7 (3) 500-YEAR FLOODPLAIN.—The term “500-  
8 year floodplain” means that area which is subject to  
9 inundation from a flood having a 0.2 percent chance  
10 of being equaled or exceeded in any given year.

11 (4) WRITE YOUR OWN.—The term “Write Your  
12 Own” means the cooperative undertaking between  
13 the insurance industry and the Flood Insurance Ad-  
14 ministration which allows participating property and  
15 casualty insurance companies to write and service  
16 standard flood insurance policies.

17 (b) COMMON TERMINOLOGY.—Except as otherwise  
18 provided in this Act, any terms used in this Act shall have  
19 the meaning given to such terms under section 1370 of  
20 the National Flood Insurance Act of 1968 (42 U.S.C.  
21 4121).

22 **SEC. 4. REFORM OF PREMIUM RATE STRUCTURE.**

23 (a) TO EXCLUDE CERTAIN PROPERTIES FROM RE-  
24 CEIVING SUBSIDIZED PREMIUM RATES.—

1           (1) IN GENERAL.—Section 1307 of the Na-  
2           tional Flood Insurance Act of 1968 (42 U.S.C.  
3           4014) is amended—

4                   (A) in subsection (a)—

5                           (i) in paragraph (2), by striking “;  
6                           and” and inserting a semicolon;

7                           (ii) in paragraph (3), by striking the  
8                           period at the end and inserting “; and”;  
9                           and

10                           (iii) by adding at the end the fol-  
11                           lowing:

12                   “(4) the exclusion of prospective insureds from  
13                   purchasing flood insurance at rates less than those  
14                   estimated under paragraph (1), as required by para-  
15                   graph (2), for certain properties, including for—

16                           “(A) any property which is not the pri-  
17                           mary residence of an individual;

18                           “(B) any severe repetitive loss property, as  
19                           defined in section 1361A(b);

20                           “(C) any property that has incurred flood-  
21                           related damage in which the cumulative  
22                           amounts of payments under this title equaled or  
23                           exceeded the fair market value of such property;

24                           “(D) any business property; and

1           “(E) any property which on or after the  
2           date of enactment of the Flood Insurance Re-  
3           form and Modernization Act of 2006 has experi-  
4           enced or sustained—

5                   “(i) substantial damage exceeding 50  
6                   percent of the fair market value of such  
7                   property; or

8                   “(ii) substantial improvement exceed-  
9                   ing 30 percent of the fair market value of  
10                  such property.”; and

11                 (B) by adding at the end the following:

12                 “(g) NO EXTENSION OF SUBSIDY TO NEW POLICIES  
13                 OR LAPSED POLICIES.—The Director shall not provide  
14                 flood insurance to prospective insureds at rates less than  
15                 those estimated under subsection (a)(1), as required by  
16                 paragraph (2) of that subsection, for—

17                   “(1) any property not insured by the flood in-  
18                   surance program as of the date of enactment of the  
19                   Flood Insurance Reform and Modernization Act of  
20                   2006; and

21                   “(2) any policy under the flood insurance pro-  
22                   gram that has lapsed in coverage, as a result of the  
23                   deliberate choice of the holder of such policy.”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by paragraph (1) shall become effective 90 days  
3           after the date of the enactment of this Act.

4           (b) INCREASE IN ANNUAL LIMITATION ON PREMIUM  
5 INCREASES.—Section 1308(e) of the National Flood In-  
6 surance Act of 1968 (42 U.S.C. 4015(e)) is amended—

7           (1) by striking “under this title for any prop-  
8           erties within any single” and inserting the following:  
9           “under this title for any properties—

10           “(1) within any single”;

11           (2) by striking “10 percent” and inserting “15  
12           percent”; and

13           (3) by striking the period at the end and insert-  
14           ing the following: “; and

15           “(2) described in section 1307(a)(4) shall be in-  
16           creased by 25 percent each year, until the average  
17           risk premium rate for such properties is equal to the  
18           average of the risk premium rates for properties de-  
19           scribed under paragraph (1).”.

20 **SEC. 5. MANDATORY COVERAGE AREAS.**

21           (a) SPECIAL FLOOD HAZARD AREAS.—Not later  
22 than 90 days after the date of enactment of this Act, the  
23 Director shall issue final regulations establishing a revised  
24 definition of areas of special flood hazards for purposes  
25 of the National Flood Insurance Program.

1 (b) RESIDUAL RISK AREAS.—The regulations re-  
2 quired by subsection (a) shall—

3 (1) include any area previously identified by the  
4 Director as an area having special flood hazards  
5 under section 102 of the Flood Disaster Protection  
6 Act of 1973 (42 U.S.C. 4012a)); and

7 (2) require the expansion of areas of special  
8 flood hazards to include areas of residual risk, in-  
9 cluding areas that are located behind levees, dams,  
10 and other man-made structures.

11 (c) MANDATORY PARTICIPATION IN NATIONAL  
12 FLOOD INSURANCE PROGRAM.—

13 (1) IN GENERAL.—Any area described in sub-  
14 section (b) shall be subject to the mandatory pur-  
15 chase requirements of sections 102 and 202 of the  
16 Flood Disaster Protection Act of 1973 (42 U.S.C.  
17 4012a, 4106).

18 (2) LIMITATION.—The mandatory purchase re-  
19 quirement under paragraph (1) shall have no force  
20 or effect until the Director completes the mapping of  
21 all residual risk areas in the United States that the  
22 Director determines essential in order to administer  
23 the National Flood Insurance Program, as required  
24 under section 17.

1 **SEC. 6. PREMIUM ADJUSTMENT.**

2 Section 1308 of the National Flood Insurance Act of  
3 1968 (42 U.S.C. 4015) is amended by adding at the end  
4 the following:

5 “(g) PREMIUM ADJUSTMENT TO REFLECT CURRENT  
6 RISK OF FLOOD.—Notwithstanding subsection (f), and  
7 upon completion of the updating of any flood insurance  
8 rate map under this Act, the Flood Disaster Protection  
9 Act of 1973, or the Flood Insurance Reform and Mod-  
10 ernization Act of 2006, any property located in an area  
11 that is participating in the national flood insurance pro-  
12 gram may have the risk premium rate charged for flood  
13 insurance on such property adjusted to accurately reflect  
14 the current risk of flood to such property, subject to any  
15 other provision of this Act.”.

16 **SEC. 7. STATE CHARTERED FINANCIAL INSTITUTIONS.**

17 Section 1305(c) of the National Flood Insurance Act  
18 of 1968 (42 U.S.C. 4012(c)) is amended—

19 (1) in paragraph (1), by striking “; and” and  
20 inserting a semicolon;

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

23 (3) by adding at the end the following:

24 “(3) given satisfactory assurance that by De-  
25 cember 31, 2008, lending institutions chartered by a  
26 State, and not insured by the Federal Deposit Insur-

1       ance Corporation, shall be subject to regulations by  
2       that State that are consistent with the requirements  
3       of section 102 of the Flood Disaster Protection Act  
4       of 1973 (42 U.S.C. 4012a).”.

5       **SEC. 8. ENFORCEMENT.**

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

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

10              (2) by striking the second sentence.

11       **SEC. 9. ESCROW OF FLOOD INSURANCE PAYMENTS.**

12       (a) IN GENERAL.—Section 102(d) of the Flood Dis-  
13       aster Protection Act of 1973 (42 U.S.C. 4012a(d)) is  
14       amended—

15              (1) by amending paragraph (1) to read as fol-  
16       lows:

17              “(1) REGULATED LENDING INSTITUTIONS.—

18       Each Federal entity for lending regulation (after  
19       consultation and coordination with the Federal Fi-  
20       nancial Institutions Examination Council) shall, by  
21       regulation, direct that any premiums and fees for  
22       flood insurance under the National Flood Insurance  
23       Act of 1968, on any property for which a loan has  
24       been made for acquisition or construction purposes  
25       shall be paid to the mortgage lender, with the same

1 frequency as payments on the loan are made, for the  
2 duration of the loan. Upon receipt of any premiums  
3 or fees, the lender shall deposit such premiums and  
4 fees in an escrow account on behalf of the borrower.  
5 Upon receipt of a notice from the Director or the  
6 provider of the flood insurance that insurance pre-  
7 miums are due, the remaining balance of an escrow  
8 account shall be paid to the provider of the flood in-  
9 surance.”; and

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

11 “(6) NOTICE UPON LOAN TERMINATION.—Upon  
12 final payment of the mortgage, a regulated lending  
13 institution shall provide notice to the policyholder  
14 that insurance coverage may cease with such final  
15 payment. The regulated lending institution shall also  
16 provide direction as to how the homeowner may con-  
17 tinue flood insurance coverage after the life of the  
18 loan.”.

19 (b) APPLICABILITY.—The amendment made by sub-  
20 section (a)(1) shall apply to any mortgage outstanding or  
21 entered into on or after the expiration of the 2-year period  
22 beginning on the date of enactment of this Act.

23 **SEC. 10. FINANCING OF FUNDS FROM THE TREASURY.**

24 (a) IN GENERAL.—Notwithstanding the require-  
25 ments of section 15(e) of the Federal Flood Insurance Act

1 of 1956 (42 U.S.C. 2414(e)), the Secretary of the Treas-  
2 ury is authorized and directed to transfer, without secur-  
3 ing any notes or other obligations from the Director, such  
4 sums as may be necessary for the payment of claims for  
5 any damage to or loss of property which is covered by  
6 flood insurance made available under the National Flood  
7 Insurance Program, including any sums which are in ex-  
8 cess of amounts borrowed by the Director from the Sec-  
9 retary, as of the date of enactment of this Act, under the  
10 authority vested to the Director under section 1309 of the  
11 National Flood Insurance Act of 1968 (42 U.S.C. 4016),  
12 to pay claims resulting from the hurricane season of 2005.

13 (b) PUBLIC DEBT TRANSACTIONS.—In meeting the  
14 obligations established under subsection (a), the Secretary  
15 of the Treasury is authorized to use as a public debt trans-  
16 action the proceeds of the sale of any securities issued  
17 after the date of enactment of this Act under chapter 31  
18 of title 31, United States Code.

19 **SEC. 11. BORROWING AUTHORITY DEBT FORGIVENESS.**

20 (a) IN GENERAL.—The Secretary of the Treasury re-  
21 linqishes the right to any repayment of amounts due  
22 from the Director in connection with the exercise of the  
23 authority vested to the Director to borrow such sums  
24 under section 1309 of the National Flood Insurance Act  
25 of 1968 (42 U.S.C. 4016), to the extent such borrowed

1 sums were used to fund the payment of flood insurance  
2 claims under the National Flood Insurance Program for  
3 any damage to or loss of property resulting from the hurri-  
4 canes of 2005.

5 (b) CERTIFICATION.—The debt forgiveness described  
6 under subsection (a) shall only take effect if the Director  
7 certifies to the Secretary of Treasury that all authorized  
8 resources or funds available to the Director to operate the  
9 National Flood Insurance Program—

10 (1) have been otherwise obligated to pay claims  
11 under the National Flood Insurance Program; and

12 (2) are not otherwise available to make pay-  
13 ments to the Secretary on any outstanding notes or  
14 obligations issued by the Director and held by the  
15 Secretary.

16 (c) DECREASE IN BORROWING AUTHORITY.—The  
17 first sentence of subsection (a) of section 1309 of the Na-  
18 tional Flood Insurance Act of 1968 (42 U.S.C. 4016(a)),  
19 as amended by the National Flood Insurance Program  
20 Enhanced Borrowing Authority Act of 2006 (Public Law  
21 109–208; 120 Stat. 317), is amended by striking  
22 “\$20,775,000,000” and inserting “\$1,500,000,000”.

1 **SEC. 12. MINIMUM DEDUCTIBLES FOR CLAIMS UNDER THE**  
2 **NATIONAL FLOOD INSURANCE PROGRAM.**

3 Section 1312 of the National Flood Insurance Act of  
4 1968 (42 U.S.C. 4019) is amended—

5 (1) by striking “The Director is” and inserting  
6 the following:

7 “(a) IN GENERAL.—The Director is”; and

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

9 “(b) MINIMUM ANNUAL DEDUCTIBLE.—For any  
10 property or structure which is covered by flood insurance  
11 under this title, the minimum annual deductible shall be—

12 “(1) \$2,000, if construction or substantial im-  
13 provement occurred on such property or structure on  
14 or before December 31, 1974, or before the effective  
15 date of an initial flood insurance rate map published  
16 by the Director under section 1360 for the area in  
17 which such property or structure is located; and

18 “(2) \$1,000, if construction or substantial im-  
19 provement occurred on such property or structure  
20 after December 31, 1974, or after the effective date  
21 of an initial flood insurance rate map published by  
22 the Director under section 1360 for the area in  
23 which such property or structure is located.”.

1 **SEC. 13. CONSIDERATIONS IN DETERMINING CHARGEABLE**  
 2 **PREMIUM RATES.**

3 Section 1308 of the National Flood Insurance Act of  
 4 1968 (42 U.S.C. 4015(b)) is amended—

5 (1) in subsection (a), by striking “, after con-  
 6 sultation with” and all that follows through “by reg-  
 7 ulation” and inserting “prescribe, after providing  
 8 notice”;

9 (2) in subsection (b)—

10 (A) in paragraph (1), by striking the pe-  
 11 riod at the end and inserting a semicolon;

12 (B) in paragraph (2), by striking the  
 13 comma at the end and inserting a semicolon;

14 (C) in paragraph (3), by striking “, and”  
 15 and inserting a semicolon;

16 (D) in paragraph (4), by striking the pe-  
 17 riod and inserting “; and”; and

18 (E) by adding at the end the following:

19 “(5) adequate, on the basis of accepted actu-  
 20 arial principles, to cover the average historical loss  
 21 year obligations incurred by the National Flood In-  
 22 surance Fund.”; and

23 (3) by adding at the end the following:

24 “(h) **RULE OF CONSTRUCTION.**—For purposes of this  
 25 section, the calculation of an ‘average historical loss year’  
 26 includes catastrophic loss years.”.

1 **SEC. 14. RESERVE FUND.**

2 Chapter I of the National Flood Insurance Act of  
3 1968 (42 U.S.C. 4011 et seq.) is amended by inserting  
4 after section 1310 the following:

5 **“SEC. 1310A. RESERVE FUND.**

6 “(a) IN GENERAL.—In carrying out the flood insur-  
7 ance program authorized by this chapter, the Director  
8 shall establish in the Treasury of the United States a Na-  
9 tional Flood Insurance Reserve Fund (in this section re-  
10 ferred to as the ‘Reserve Fund’) which shall—

11 “(1) be an account separate from any other ac-  
12 counts or funds available to the Director; and

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

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

18 “(1) 1 percent of the sum of the total potential  
19 loss exposure of all outstanding flood insurance poli-  
20 cies in force in the prior fiscal year; or

21 “(2) such higher percentage as the Director de-  
22 termines to be appropriate, taking into consideration  
23 any circumstance that may raise a significant risk of  
24 substantial future losses to the Reserve Fund.

25 “(c) MAINTENANCE OF RESERVE RATIO.—

1           “(1) IN GENERAL.—The Director shall have the  
2 authority to establish, increase, or decrease the  
3 amount of aggregate annual insurance premiums to  
4 be collected for any fiscal year necessary—

5                   “(A) to maintain the reserve ratio required  
6 under subsection (b); and

7                   “(B) to achieve such reserve ratio, if the  
8 actual balance of such reserve is below the  
9 amount required under subsection (b).

10           “(2) CONSIDERATIONS.—In exercising the au-  
11 thority granted under paragraph (1), the Director  
12 shall consider—

13                   “(A) the expected operating expenses of  
14 the Reserve Fund;

15                   “(B) the insurance loss expenditures under  
16 the flood insurance program;

17                   “(C) any investment income generated  
18 under the flood insurance program; and

19                   “(D) any other factor that the Director de-  
20 termines appropriate.

21           “(3) LIMITATION.—In exercising the authority  
22 granted under paragraph (1), the Director may not  
23 establish, increase, or decrease the amount of aggre-  
24 gate annual insurance premiums to be collected for  
25 any fiscal year in excess of any amount necessary—

1           “(A) to maintain the reserve ratio required  
2           under subsection (b); and

3           “(B) to achieve such reserve ratio, if the  
4           actual balance of such reserve is below the  
5           amount required under subsection (b).

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

8           “(1) For fiscal year 2007, the reserve ratio  
9           shall be equal to not less than 10 percent of the re-  
10          serve ratio required under subsection (b).

11          “(2) For fiscal year 2008, the reserve ratio  
12          shall be equal to not less than 20 percent of the re-  
13          serve ratio required under subsection (b).

14          “(3) For fiscal year 2009, the reserve ratio  
15          shall be equal to not less than 30 percent of the re-  
16          serve ratio required under subsection (b).

17          “(4) For fiscal year 2010, the reserve ratio  
18          shall be equal to not less than 40 percent of the re-  
19          serve ratio required under subsection (b).

20          “(5) For fiscal year 2011, the reserve ratio  
21          shall be equal to not less than 50 percent of the re-  
22          serve ratio required under subsection (b).

23          “(6) For fiscal year 2012, the reserve ratio  
24          shall be equal to not less than 60 percent of the re-  
25          serve ratio required under subsection (b).

1           “(7) For fiscal year 2013, the reserve ratio  
2 shall be equal to not less than 70 percent of the re-  
3 serve ratio required under subsection (b).

4           “(8) For fiscal year 2014, the reserve ratio  
5 shall be equal to not less than 80 percent of the re-  
6 serve ratio required under subsection (b).

7           “(9) For fiscal year 2015, the reserve ratio  
8 shall be equal to not less than 90 percent of the re-  
9 serve ratio required under subsection (b).

10          “(e) LIMITATION ON RESERVE RATIO.—In any given  
11 fiscal year, if the Director determines that attaining the  
12 reserve ratio required under subsection (b) would have se-  
13 rious negative consequences to the flood insurance pro-  
14 gram, the Director shall submit a report to Congress  
15 that—

16           “(1) describes and details the specific concerns  
17 of the Director regarding such consequences;

18           “(2) demonstrates how such consequences  
19 would harm the long-term financial soundness of the  
20 flood insurance program; and

21           “(3) indicates the maximum attainable reserve  
22 ratio for that particular fiscal year.”.

1 **SEC. 15. REPAYMENT PLAN FOR BORROWING AUTHORITY.**

2 Section 1309 of the National Flood Insurance Act of  
3 1968 (42 U.S.C. 4016) is amended by adding at the end  
4 the following:

5 “(c) Any funds borrowed by the Director under the  
6 authority established in subsection (a) shall include a  
7 schedule for repayment of such amounts which shall be  
8 transmitted to the—

9 “(1) Secretary of the Treasury;

10 “(2) Committee on Banking, Housing, and  
11 Urban Affairs of the Senate; and

12 “(3) Committee on Financial Services of the  
13 House of Representatives.

14 “(d) In addition to the requirement under subsection  
15 (c), in connection with any funds borrowed by the Director  
16 under the authority established in subsection (a), the Di-  
17 rector, beginning 6 months after the date on which such  
18 borrowed funds are issued, and continuing every 6 months  
19 thereafter until such borrowed funds are fully repaid, shall  
20 submit a report on the progress of such repayment to  
21 the—

22 “(1) Secretary of the Treasury;

23 “(2) Committee on Banking, Housing, and  
24 Urban Affairs of the Senate; and

25 “(3) Committee on Financial Services of the  
26 House of Representatives.”.

1 **SEC. 16. TECHNICAL MAPPING ADVISORY COUNCIL.**

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

5 (b) MEMBERSHIP.—

6 (1) IN GENERAL.—The Council shall consist of  
7 the Director, or the designee thereof, and 11 addi-  
8 tional members to be appointed by the Director or  
9 the designee of the Director, who shall be—

10 (A) the Under Secretary of Commerce for  
11 Oceans and Atmosphere (or the designee there-  
12 of);

13 (B) a member of recognized surveying and  
14 mapping professional associations and organiza-  
15 tions;

16 (C) a member of recognized professional  
17 engineering associations and organizations;

18 (D) a member of recognized professional  
19 associations or organizations representing flood  
20 hazard determination firms;

21 (E) a representative of the United States  
22 Geological Survey;

23 (F) a representative of the Office of Man-  
24 agement and Budget;

1 (G) a representative of recognized profes-  
2 sional associations or organizations representing  
3 State geographic information;

4 (H) a representative of State national flood  
5 insurance coordination offices;

6 (I) a representative of the Corps of Engi-  
7 neers;

8 (J) the Secretary of the Interior (or the  
9 designee thereof); and

10 (K) the Secretary of Agriculture (or the  
11 designee thereof).

12 (2) QUALIFICATIONS.—Members of the Council  
13 shall be appointed based on their demonstrated  
14 knowledge and competence regarding surveying, car-  
15 tography, remote sensing, geographic information  
16 systems, or the technical aspects of preparing and  
17 using flood insurance rate maps.

18 (c) DUTIES.—The Council shall—

19 (1) make recommendations to the Director on  
20 how to improve in a cost-effective manner the accu-  
21 racy, general quality, ease of use, and distribution  
22 and dissemination of flood insurance rate maps;

23 (2) recommend to the Director mapping stand-  
24 ards and guidelines for flood insurance rate maps;  
25 and

1           (3) submit an annual report to the Director  
2 that contains—

3           (A) a description of the activities of the  
4 Council;

5           (B) an evaluation of the status and per-  
6 formance of flood insurance rate maps and  
7 mapping activities to revise and update flood in-  
8 surance rate maps, as required under section  
9 17;

10          (C) a summary of recommendations made  
11 by the Council to the Director, including—

12           (i) performance metrics and mile-  
13 stones to effectively and efficiently map  
14 flood risk areas in the United States;

15           (ii) procedures for delegating mapping  
16 activities to State and local government  
17 mapping partners; and

18           (iii) establishing standards for data  
19 quality, data currency, and data eligibility;  
20 and

21          (D) recommendations for private contrac-  
22 tors to carry out the recommendations of the  
23 Council.

1 (d) CHAIRPERSON.—The members of the Council  
2 shall elect 1 member to serve as the chairperson of the  
3 Council (in this section referred to as the “Chairperson”).

4 (e) COORDINATION.—To ensure that the Council’s  
5 recommendations are consistent, to the maximum extent  
6 practicable, with national digital spatial data collection  
7 and management standards, the Chairperson shall consult  
8 with the Chairperson of the Federal Geographic Data  
9 Committee (established pursuant to OMB Circular A–16).

10 (f) COMPENSATION.—Members of the Council shall  
11 receive no additional compensation by reason of their serv-  
12 ice on the Council.

13 (g) MEETINGS AND ACTIONS.—

14 (1) IN GENERAL.—The Council shall meet not  
15 less frequently than twice each year at the request  
16 of the Chairperson or a majority of its members,  
17 and may take action by a vote of the majority of the  
18 members.

19 (2) INITIAL MEETING.—The Director, or a per-  
20 son designated by the Director, shall request and co-  
21 ordinate the initial meeting of the Council.

22 (h) OFFICERS.—The Chairperson may appoint offi-  
23 cers to assist in carrying out the duties of the Council  
24 under subsection (c).

1 (i) STAFF OF FEMA.—Upon the request of the  
2 Chairperson, the Director may detail, on a nonreimburs-  
3 able basis, personnel of the Federal Emergency Manage-  
4 ment Agency to assist the Council in carrying out its du-  
5 ties.

6 (j) POWERS.—In carrying out this section, the Coun-  
7 cil may hold hearings, receive evidence and assistance, pro-  
8 vide information, and conduct research, as it considers ap-  
9 propriate.

10 (k) TERMINATION.—The Council shall terminate 5  
11 years after the date of enactment of this Act.

12 **SEC. 17. NATIONAL FLOOD MAPPING PROGRAM.**

13 (a) REVIEWING, UPDATING, AND MAINTAINING  
14 MAPS.—The Director, in coordination with the Technical  
15 Mapping Advisory Council established under section 16,  
16 shall establish a program under which the Director shall  
17 review, update, and maintain National Flood Insurance  
18 Program rate maps in accordance with this section.

19 (b) MAPPING.—

20 (1) IN GENERAL.—In carrying out the program  
21 established under subsection (a), the Director  
22 shall—

23 (A) identify, review, update, maintain, and  
24 publish National Flood Insurance Program rate  
25 maps with respect to—

1 (i) all areas located within the 500-  
2 year floodplain that have not previously  
3 been identified, including coastal areas lo-  
4 cated in the United States;

5 (ii) areas of residual risk that have  
6 not previously been identified, including  
7 areas that are located behind levees, dams,  
8 and other man-made structures; and

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

13 (B) establish or update flood-risk zone  
14 data in all such areas, and make estimates with  
15 respect to the rates of probable flood caused  
16 loss for the various flood risk zones for each  
17 such area; and

18 (C) use, in identifying, reviewing, updat-  
19 ing, maintaining, or publishing any National  
20 Flood Insurance Program rate map required  
21 under this section or under the National Flood  
22 Insurance Act of 1968, the most accurate to-  
23 pography and elevation data available.

24 (2) MAPPING ELEMENTS.—Each map updated  
25 under this section shall include the following:

1 (A) NEW GROUND ELEVATION DATA.—

2 (i) IN GENERAL.—New ground ele-  
3 vation data utilizing the newest tech-  
4 nologies for the development of hydrologic  
5 and hydraulic modeling to support all  
6 flooding sources.

7 (ii) DEFINITION.—As used in clause  
8 (i), the term “new ground elevation data”  
9 means data that meets the requirements of  
10 Appendix A, Guidance for Aerial Mapping  
11 and Surveying, of the Federal Emergency  
12 Management Agency’s “Guidelines and  
13 Specifications for Flood Hazard Mapping  
14 Partners” as in effect on the date of enact-  
15 ment of this Act.

16 (B) DATA ON A WATERSHED BASIS.—De-  
17 lineation of National Flood Insurance Program  
18 flood data on a watershed basis—

19 (i) to provide the most technically ef-  
20 fective and efficient studies and hydrologic  
21 and hydraulic modeling; and

22 (ii) to eliminate, to the maximum ex-  
23 tent possible, discrepancies in base flood  
24 elevations between adjacent political sub-  
25 divisions.

1           (C) VERTICAL POSITIONING.—Vertical po-  
2           sitioning of the lowest floor and lowest adjacent  
3           grade coordinate elevation data in the national  
4           inventory of structures.

5           (3) OTHER INCLUSIONS.—In updating maps  
6           under this section, the Director shall include—

7           (A) any relevant information on coastal in-  
8           undation from—

9                   (i) an applicable inundation map of  
10                   the Corps of Engineers; and

11                   (ii) data of the National Oceanic and  
12                   Atmospheric Administration relating to  
13                   storm surge modeling;

14           (B) any relevant information of the United  
15           States Geological Survey on stream flows, wa-  
16           tershed characteristics, and topography that is  
17           useful in the identification of flood hazard  
18           areas, as determined by the Director; and

19           (C) a description of any hazard that might  
20           impact flooding, including, as determined by the  
21           Director—

22                   (i) land subsidence and coastal erosion  
23                   areas;

24                   (ii) sediment flow areas;

25                   (iii) mud flow areas;

- 1 (iv) ice jam areas; and  
2 (v) areas on coasts and inland that  
3 are subject to the failure of structural pro-  
4 tective works, such as levees, dams, and  
5 floodwalls.

6 (c) STANDARDS.—In updating and maintaining maps  
7 under this section, the Director shall—

8 (1) establish standards to—

9 (A) ensure that maps are adequate for—

10 (i) flood risk determinations; and

11 (ii) use by State and local govern-  
12 ments in managing development to reduce  
13 the risk of flooding; and

14 (B) facilitate identification and use of con-  
15 sistent methods of data collection and analysis  
16 by the Director, in conjunction with State and  
17 local governments, in developing maps for com-  
18 munities with similar flood risks, as determined  
19 by the Director; and

20 (2) publish maps in a format that is—

21 (A) digital;

22 (B) geospatial data-compliant, as deter-  
23 mined in accordance with the standards for  
24 such compliance established by the Open  
25 Geospatial Consortium; and

1 (C) compliant with the North American  
2 Vertical Datum of 1988.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
4 authorized to be appropriated to the Director to carry out  
5 this section \$400,000,000 for each of fiscal years 2007  
6 through 2012.

7 **SEC. 18. REMOVAL OF LIMITATION ON STATE CONTRIBU-**  
8 **TIONS FOR UPDATING FLOOD MAPS.**

9 Section 1360(f)(2) of the National Flood Insurance  
10 Act of 1968 (42 U.S.C. 4101(f)(2)) is amended by striking  
11 “, but which may not exceed 50 percent of the cost of  
12 carrying out the requested revision or update”.

13 **SEC. 19. NONMANDATORY PARTICIPATION.**

14 (a) NONMANDATORY PARTICIPATION IN NATIONAL  
15 FLOOD INSURANCE PROGRAM FOR 500-YEAR FLOOD-  
16 PLAIN.—Any area located within the 500-year floodplain  
17 shall not be subject to the mandatory purchase require-  
18 ments of sections 102 or 202 of the Flood Disaster Protec-  
19 tion Act of 1973 (42 U.S.C. 4012a, 4106).

20 (b) NOTICE.—

21 (1) BY DIRECTOR.—In carrying out the Na-  
22 tional Flood Insurance Program, the Director shall  
23 provide notice to any community located in an area  
24 within the 500-year floodplain.

1           (2) TIMING OF NOTICE.—The notice required  
2           under paragraph (1) shall be made not later than 6  
3           months after the date of completion of the initial  
4           mapping of the 500-year floodplain, as required  
5           under section 17.

6           (3) LENDER REQUIRED NOTICE.—

7           (A) REGULATED LENDING INSTITU-  
8           TIONS.—Each Federal or State entity for lend-  
9           ing regulation (after consultation and coordina-  
10          tion with the Federal Financial Institutions Ex-  
11          amination Council) shall, by regulation, require  
12          regulated lending institutions, as a condition of  
13          making, increasing, extending, or renewing any  
14          loan secured by property located in an area  
15          within the 500-year floodplain, to notify the  
16          purchaser or lessee (or obtain satisfactory as-  
17          surances that the seller or lessor has notified  
18          the purchaser or lessee) and the servicer of the  
19          loan that such property is located in an area  
20          within the 500-year floodplain, in a manner  
21          that is consistent with and substantially iden-  
22          tical to the notice required under section  
23          1364(a)(1) of the National Flood Insurance Act  
24          of 1968 (42 U.S.C. 4104a(a)(1)).

1 (B) FEDERAL OR STATE AGENCY LEND-  
 2 ERS.—Each Federal or State agency lender  
 3 shall, by regulation, require notification in the  
 4 same manner as provided under subparagraph  
 5 (A) with respect to any loan that is made by a  
 6 Federal or State agency lender and secured by  
 7 property located in an area within the 500-year  
 8 floodplain.

9 (C) PENALTY FOR NONCOMPLIANCE.—Any  
 10 regulated lending institution or Federal or  
 11 State agency lender that fails to comply with  
 12 the notice requirements established by this  
 13 paragraph shall be subject to the penalties pre-  
 14 scribed under section 102(f)(5) of the Flood  
 15 Disaster Protection Act of 1973 (42 U.S.C.  
 16 4012a(f)(5)).

17 **SEC. 20. NOTICE OF FLOOD INSURANCE AVAILABILITY**  
 18 **UNDER RESPA.**

19 Section 5(b) of the Real Estate Settlement Proce-  
 20 dures Act of 1974 (12 U.S.C. 2604(b)) is amended—

21 (1) in paragraph (4), by striking “; and” and  
 22 inserting a semicolon;

23 (2) in paragraph (5), by striking the period and  
 24 inserting “; and”; and

25 (3) by adding at the end the following:

1           “(6) an explanation of flood insurance and the  
2           availability of flood insurance under the National  
3           Flood Insurance Program, whether or not the real  
4           estate is located in an area having special flood haz-  
5           ards.”.

6 **SEC. 21. TESTING OF NEW FLOODPROOFING TECH-**  
7           **NOLOGIES.**

8           (a) **PERMISSIBLE TESTING.**—A residential structure  
9           built for the purpose of testing a new flood proofing tech-  
10          nology, as described in subsection (b), in any State or  
11          community that receives mitigation assistance under sec-  
12          tion 1366 of the National Flood Insurance Act of 1968  
13          (42 U.S.C. 4104c) may not be construed to be in violation  
14          of any flood risk mitigation plan developed by that State  
15          or community and approved by the Director of the Federal  
16          Emergency Management Agency.

17          (b) **CONDITIONS ON TESTING.**—Testing permitted  
18          under subsection (a) shall—

19               (1) be performed on an uninhabited residential  
20               structure;

21               (2) require dismantling of the structure at the  
22               conclusion of such testing; and

23               (3) require that all costs associated with such  
24               testing and dismantling be covered by the individual

1 or entity conducting the testing, or on whose behalf  
 2 the testing is conducted.

3 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
 4 tion shall be construed to alter, limit, or extend the avail-  
 5 ability of flood insurance to any structure that may em-  
 6 ploy, utilize, or apply any technology tested under sub-  
 7 section (b).

8 **SEC. 22. PARTICIPATION IN STATE DISASTER CLAIMS MEDI-**  
 9 **ATION PROGRAMS.**

10 Chapter I of the National Flood Insurance Act of  
 11 1968 (42 U.S.C. 4011 et seq.) is amended by inserting  
 12 after section 1313 the following:

13 **“SEC. 1314. PARTICIPATION IN STATE DISASTER CLAIMS**  
 14 **MEDIATION PROGRAMS.**

15 “(a) **REQUIREMENT TO PARTICIPATE.**—In the case  
 16 of the occurrence of a major disaster, as defined in section  
 17 102 of the Robert T. Stafford Disaster Relief and Emer-  
 18 gency Assistance Act (42 U.S.C. 5122) that may have re-  
 19 sulted in flood damage under the flood insurance program  
 20 established under this chapter and other personal lines  
 21 residential property insurance coverage offered by a State  
 22 regulated insurer, upon request made by the insurance  
 23 commissioner of a State (or such other official responsible  
 24 for regulating the business of insurance in the State) for  
 25 the participation of representatives of the Director in a

1 program sponsored by such State for nonbinding medi-  
2 ation of insurance claims resulting from a major disaster,  
3 the Director shall cause representatives of the flood insur-  
4 ance program to participate in such a State program  
5 where claims under the flood insurance program are in-  
6 volved to expedite settlement of flood damage claims re-  
7 sulting from such disaster.

8 “(b) EXTENT OF PARTICIPATION.—In satisfying the  
9 requirements of subsection (a), the Director shall require  
10 that each representative of the Director—

11 “(1) be certified for purposes of the flood insur-  
12 ance program to settle claims against such program  
13 resulting from such disaster in amounts up to the  
14 limits of policies under such program;

15 “(2) attend State-sponsored mediation meetings  
16 regarding flood insurance claims resulting from such  
17 disaster at such times and places as may be ar-  
18 ranged by the State;

19 “(3) participate in good faith negotiations to-  
20 ward the settlement of such claims with policy-  
21 holders of coverage made available under the flood  
22 insurance program; and

23 “(4) finalize the settlement of such claims on  
24 behalf of the flood insurance program with such pol-  
25 icyholders.

1       “(c) COORDINATION.—Representatives of the Direc-  
2 tor shall at all times coordinate their activities with insur-  
3 ance officials of the State and representatives of insurers  
4 for the purposes of consolidating and expediting settle-  
5 ment of claims under the national flood insurance program  
6 resulting from such disaster.

7       “(d) QUALIFICATIONS OF MEDIATORS.—Each State  
8 mediator participating in State-sponsored mediation under  
9 this section shall be—

10           “(1)(A) a member in good standing of the State  
11 bar in the State in which the mediation is to occur  
12 with at least 2 years of practical experience; and

13           “(B) an active member of such bar for at least  
14 1 year prior to the year in which such mediator’s  
15 participation is sought; or

16           “(2) a retired trial judge from any United  
17 States jurisdiction who was a member in good stand-  
18 ing of the bar in the State in which the judge pre-  
19 sided for at least 5 years prior to the year in which  
20 such mediator’s participation is sought.

21       “(e) MEDIATION PROCEEDINGS AND DOCUMENTS  
22 PRIVILEGED.—As a condition of participation, all state-  
23 ments made and documents produced pursuant to State-  
24 sponsored mediation involving representatives of the Di-

1 rector shall be deemed privileged and confidential settle-  
2 ment negotiations made in anticipation of litigation.

3 “(f) LIABILITY, RIGHTS, OR OBLIGATIONS NOT AF-  
4 FECTED.—Participation in State-sponsored mediation, as  
5 described in this section does not—

6 “(1) affect or expand the liability of any party  
7 in contract or in tort; or

8 “(2) affect the rights or obligations of the par-  
9 ties, as established—

10 “(A) in any regulation issued by the Direc-  
11 tor, including any regulation relating to a  
12 Standard Flood Insurance Policy;

13 “(B) under this Act; and

14 “(C) under any other provision of Federal  
15 law.

16 “(g) EXCLUSIVE FEDERAL JURISDICTION.—Partici-  
17 pation in State-sponsored mediation shall not alter,  
18 change, or modify the original exclusive jurisdiction of  
19 United States courts, as set forth in this Act.

20 “(h) COST LIMITATION.—Nothing in this section  
21 shall be construed to require the Director or a representa-  
22 tive of the Director to pay additional mediation fees relat-  
23 ing to flood insurance claims associated with a State-spon-  
24 sored mediation program in which such representative of  
25 the Director participates.

1       “(i) EXCEPTION.—In the case of the occurrence of  
2 a major disaster that results in flood damage claims under  
3 the national flood insurance program and that does not  
4 result in any loss covered by a personal lines residential  
5 property insurance policy—

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

7               “(2) the provisions of the Standard Flood In-  
8 surance Policy under the national flood insurance  
9 program and the appeals process established under  
10 section 205 of the Bunning-Bereuter-Blumenauer  
11 Flood Insurance Reform Act of 2004 (42 U.S.C.  
12 4011 note) and the regulations issued pursuant to  
13 such section shall apply exclusively.

14       “(j) REPRESENTATIVES OF THE DIRECTOR.—For  
15 purposes of this section, the term ‘representatives of the  
16 Director’ means representatives of the national flood in-  
17 surance program who participate in the appeals process  
18 established under section 205 of the Bunning-Bereuter-  
19 Blumenauer Flood Insurance Reform Act of 2004 (42  
20 U.S.C. 4011 note).”.

21 **SEC. 23. REITERATION OF FEMA RESPONSIBILITIES UNDER**  
22 **THE 2004 REFORM ACT.**

23       (a) APPEALS PROCESS.—As required in section 205  
24 of the Bunning-Bereuter-Blumenauer Flood Insurance  
25 Reform Act of 2004 (42 U.S.C. 4011 note), the Director

1 shall establish an appeals process through which holders  
2 of a flood insurance policy may appeal the decisions, with  
3 respect to claims, proofs of loss, and loss estimates relat-  
4 ing to such flood insurance policy, of—

5 (1) any insurance agent or adjuster, or insur-  
6 ance company; or

7 (2) any employee or contractor of the Federal  
8 Emergency Management Agency.

9 (b) MINIMUM TRAINING AND EDUCATION REQUIRE-  
10 MENTS.—The Director shall continue to work with the in-  
11 surance industry, State insurance regulators, and other in-  
12 terested parties to implement the minimum training and  
13 education standards for all insurance agents who sell flood  
14 insurance policies, as such standards were determined by  
15 the Director in the notice published in the Federal Reg-  
16 ister on September 1, 2005 (70 Fed. Reg. 52117) pursu-  
17 ant to section 207 of the Bunning-Bereuter-Blumenauer  
18 Flood Insurance Reform Act of 2004 (42 U.S.C. 4011  
19 note).

20 (c) IMPLEMENTATION REPORTS.—

21 (1) OVERALL IMPLEMENTATION OF REFORM  
22 ACT OF 2004.—Not later than 3 months after the  
23 date of the enactment of this Act, the Director shall  
24 submit a report to the Congress—

1 (A) describing the implementation of each  
2 provision of the Bunning-Bereuter-Blumenauer  
3 Flood Insurance Reform Act of 2004 (Public  
4 Law 108–264; 118 Stat. 712); and

5 (B) identifying each regulation, order, no-  
6 tice, and other material issued by the Director  
7 in implementing each provision of that Act.

8 (2) IMPLEMENTATION OF APPEALS PROCESS.—

9 (A) IN GENERAL.—Not later than 30 days  
10 after the date of enactment of this Act, and  
11 every 30 days thereafter until final establish-  
12 ment of the appeals process required under sec-  
13 tion 205 of the Bunning-Bereuter-Blumenauer  
14 Flood Insurance Reform Act of 2004 (42  
15 U.S.C. 4011 note), the Director shall submit a  
16 report to the Congress describing the implemen-  
17 tation of such appeals process.

18 (B) CONTENT OF REPORT.—Each report  
19 required under subparagraph (A) shall in-  
20 clude—

21 (i) dates and descriptions of actions  
22 taken by the Director to establish the ap-  
23 peals process;

24 (ii) dates and descriptions of all com-  
25 munications to the Congress by the Direc-

1                   tor concerning the establishment of such  
2                   process;

3                   (iii) explanations of any statutory or  
4                   implied deadlines that have not been met;  
5                   and

6                   (iv) an estimate of when any regula-  
7                   tion, order, notice, or other material will be  
8                   issued by the Director in establishing such  
9                   process.

10 **SEC. 24. STUDIES, AUDITS, AND REPORTS.**

11           (a) GAO STUDY ON WRITE YOUR OWN POLICIES.—  
12 Not later than 1 year after the date of enactment of this  
13 Act, the Comptroller General of the United States shall  
14 conduct a study and submit a report to the Committee  
15 on Banking, Housing, and Urban Affairs of the Senate  
16 and the Committee on Financial Services of the House of  
17 Representatives that examines—

18                   (1) the current fees and expenses paid from  
19                   premium income earned under the National Flood  
20                   Insurance Program to cover the cost of selling, serv-  
21                   icing, and processing of claims in connection with  
22                   National Flood Insurance Program policies, as well  
23                   as floodplain management and mitigation activities,  
24                   by—

1 (A) companies that are authorized by the  
2 Director to provide Write Your Own policies;

3 (B) National Flood Insurance Program  
4 contractors; and

5 (C) the Federal Emergency Management  
6 Agency;

7 (2) in detail—

8 (A) each of the 5 other lines of insurance  
9 the National Flood Insurance Program cur-  
10 rently uses to evaluate the amount of reim-  
11 bursement paid to authorized providers of Write  
12 Your Own policies; and

13 (B) the expenses incurred by such pro-  
14 viders in administering the National Flood In-  
15 surance Program on behalf of the Federal Gov-  
16 ernment;

17 (3) the cost difference for authorized providers  
18 of Write Your Own policies between—

19 (A) flood insurance policies at origination  
20 and flood insurance policies up for renewal; and

21 (B) flood insurance policies written for pol-  
22 icyholders who are required to purchase flood  
23 insurance and flood insurance policies written  
24 for those policyholders who are not required to  
25 purchase flood insurance;

1           (4) the similarities and differences in the ex-  
2           penses incurred in administering the National Flood  
3           Insurance Program and those incurred in admin-  
4           istering other lines of Federal, State, and private  
5           company insurance;

6           (5) in detail what actions the Director is taking  
7           to ensure that authorized providers of Write Your  
8           Own policies are only being reimbursed for their ex-  
9           penses in providing such policies;

10          (6) in detail the additional benefits authorized  
11          providers of Write Your Own policies receive by not  
12          underwriting flood risk, including the ability to mar-  
13          ket and sell other lines of insurance; and

14          (7) the feasibility of using a competitive bidding  
15          process, or other alternative, to select 1 or more pri-  
16          vate insurance companies to sell and service Na-  
17          tional Flood Insurance Program policies and process  
18          claims for fees agreed upon by contract with the Di-  
19          rector.

20          (b) GAO AUDIT.—Not later than 1 year after the  
21          date of enactment of this Act, the Comptroller General  
22          of the United States shall audit the financial transactions  
23          of the National Flood Insurance Program relating to the  
24          consequences of Hurricane Katrina and other hurricanes  
25          of the 2005 season, including any transactions—

1           (1) for making any payments required under  
2 section 1334 of the National Flood Insurance Act of  
3 1968 (42 U.S.C. 4054);

4           (2) to pay reinsurance claims under the excess  
5 loss reinsurance coverage provided under section  
6 1335 of that Act (42 U.S.C. 4055);

7           (3) to repay to the Secretary of the Treasury  
8 such sums as may have been borrowed from the Sec-  
9 retary in accordance with the authority provided in  
10 section 1309 of that Act (42 U.S.C. 4016);

11           (4) to the extent approved in appropriations  
12 Acts, to pay any administrative expenses of the Na-  
13 tional Flood Insurance Program;

14           (5) for the purposes specified in section  
15 1310(d) of that Act (42 U.S.C. 4017(d)) under the  
16 conditions provided in such section;

17           (6) for carrying out the program under section  
18 1315(b) of that Act (42 U.S.C. 4022(b));

19           (7) for transfers to the National Flood Mitiga-  
20 tion Fund, but only to the extent provided in section  
21 1367(b)(1) of that Act (42 U.S.C. 4104d(b)(1));

22           (8) for financial assistance under section 1361A  
23 of that Act (42 U.S.C. 4102a) to a State or commu-  
24 nity for taking actions under such section with re-  
25 spect to severe repetitive loss properties, but only to

1 the extent provided in section 1361A(i) of that Act;  
2 and

3 (9) that resulted in amounts being credited to  
4 the National Flood Insurance Program, including  
5 amounts—

6 (A) borrowed in accordance with the au-  
7 thority provided in section 1309 of that Act (42  
8 U.S.C. 4016);

9 (B) collected in connection with the excess  
10 loss reinsurance coverage provided under sec-  
11 tion 1335 of that Act (42 U.S.C. 4055);

12 (C) advanced to the National Flood Insur-  
13 ance Program from appropriations in order to  
14 maintain the National Flood Insurance Fund  
15 established in section 1310 of that Act (42  
16 U.S.C. 4017) in an operative condition ade-  
17 quate to meet the liabilities of the Program;

18 (D) earned on investments;

19 (E) required to be paid to the Director  
20 under section 1308(d) of that Act (42 U.S.C.  
21 4015(d)); and

22 (F) received from any other operation or  
23 activity performed under that Act.

24 (c) REPORT ON EXPANDING THE NATIONAL FLOOD  
25 INSURANCE PROGRAM.—Not later than 1 year after the

1 date of the enactment of this Act, the Comptroller General  
2 of the United States shall conduct a study and submit a  
3 report to the Committee on Banking, Housing, and Urban  
4 Affairs of the Senate and the Committee on Financial  
5 Services of the House of Representatives, on—

6 (1) the number of flood insurance policy holders  
7 currently insuring—

8 (A) a residential structure up to the max-  
9 imum available coverage amount, as established  
10 in section 61.6 of title 44, Code of Federal Reg-  
11 ulations, of—

12 (i) \$250,000 for the structure; and

13 (ii) \$100,000 for the contents of such  
14 structure; or

15 (B) a commercial structure up to the max-  
16 imum available coverage amount, as established  
17 in section 61.6 of title 44, Code of Federal Reg-  
18 ulations, of \$500,000;

19 (2) the increased losses the National Flood In-  
20 surance Program would have sustained during the  
21 2004 and 2005 hurricane season if the National  
22 Flood Insurance Program had insured all policy-  
23 holders up to the maximum conforming loan limit  
24 for fiscal year 2006 of \$417,000, as established  
25 under section 302(b)(2) of the Federal National

1 Mortgage Association Charter Act (12 U.S.C.  
2 1717(b)(2));

3 (3) the availability in the private marketplace of  
4 flood insurance coverage in amounts that exceed the  
5 current limits of coverage amounts established in  
6 section 61.6 of title 44, Code of Federal Regula-  
7 tions; and

8 (4) what effect, if any—

9 (A) raising the current limits of coverage  
10 amounts established in section 61.6 of title 44,  
11 Code of Federal Regulations, would have on the  
12 ability of private insurers to continue providing  
13 flood insurance coverage; and

14 (B) reducing the current limits of coverage  
15 amounts established in section 61.6 of title 44,  
16 Code of Federal Regulations, would have on the  
17 ability of private insurers to provide sufficient  
18 flood insurance coverage to effectively replace  
19 the current level of flood insurance coverage  
20 being provided under the National Flood Insur-  
21 ance Program.

22 (d) REPORT OF THE DIRECTOR ON ACTIVITIES  
23 UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—

24 (1) IN GENERAL.—The Director shall, on an  
25 annual basis, submit a full report on the operations,

1 activities, budget, receipts, and expenditures of the  
2 National Flood Insurance Program for the preceding  
3 12-month period to the Committee on Banking,  
4 Housing, and Urban Affairs of the Senate and the  
5 Committee on Financial Services of the House of  
6 Representatives.

7 (2) TIMING.—Each report required under para-  
8 graph (1) shall be submitted to the committees de-  
9 scribed in paragraph (1) not later than 3 months  
10 following the end of each fiscal year.

11 (3) CONTENTS.—Each report required under  
12 paragraph (1) shall include—

13 (A) the current financial condition and in-  
14 come statement of the National Flood Insur-  
15 ance Fund established under section 1310 of  
16 the National Flood Insurance Act of 1968 (42  
17 U.S.C. 4017), including—

18 (i) premiums paid into such Fund;

19 (ii) policy claims against such Fund;

20 and

21 (iii) expenses in administering such  
22 Fund;

23 (B) the number and face value of all poli-  
24 cies issued under the National Flood Insurance  
25 Program that are in force;

1 (C) a description and summary of the  
2 losses attributable to repetitive loss structures;

3 (D) a description and summary of all  
4 losses incurred by the National Flood Insurance  
5 Program due to—

6 (i) hurricane related damage; and

7 (ii) nonhurricane related damage;

8 (E) the amounts made available by the Di-  
9 rector for mitigation assistance under section  
10 1366(e)(5) of the National Flood Insurance Act  
11 of 1968 (42 U.S.C. 4104e(e)(5)) for the pur-  
12 chase of properties substantially damaged by  
13 flood for that fiscal year, and the actual num-  
14 ber of flood damaged properties purchased and  
15 the total cost expended to purchase such prop-  
16 erties;

17 (F) the estimate of the Director as to the  
18 average historical loss year, and the basis for  
19 that estimate;

20 (G) the estimate of the Director as to the  
21 maximum amount of claims that the National  
22 Flood Insurance Program would have to expend  
23 in the event of a catastrophic year;

24 (H) the average—

- 1 (i) amount of insurance carried per  
2 flood insurance policy;
- 3 (ii) premium per flood insurance pol-  
4 icy; and
- 5 (iii) loss per flood insurance policy;  
6 and
- 7 (I) the number of claims involving dam-  
8 ages in excess of the maximum amount of flood  
9 insurance available under the National Flood  
10 Insurance Program and the sum of the amount  
11 of all damages in excess of such amount.

12 (e) GAO ANALYSIS AND EVALUATION OF THE NA-  
13 TIONAL FLOOD INSURANCE PROGRAM.—

14 (1) IN GENERAL.—Not later than 1 year after  
15 the date of enactment of this Act, the Comptroller  
16 General of the United States shall submit a report  
17 evaluating the purposes of the National Flood Insur-  
18 ance Program to the Committee on Banking, Hous-  
19 ing, and Urban Affairs of the Senate and the Com-  
20 mittee on Financial Services of the House of Rep-  
21 resentatives.

22 (2) CONTENTS.—The report required under  
23 paragraph (1) shall include—

24 (A) an analysis of whether the National  
25 Flood Insurance Program has fulfilled its pur-

1           pose, as set forth in section 1302 of the Na-  
2           tional Flood Insurance Act of 1968 (42 U.S.C.  
3           4001);

4           (B) an examination of whether the Na-  
5           tional Flood Insurance Program has unduly  
6           burdened or benefitted taxpayers; and

7           (C) any recommendations for legislative or  
8           administrative action that the Comptroller Gen-  
9           eral determines are necessary to ensure that the  
10          National Flood Insurance Program operates in  
11          a more effective and efficient manner, including  
12          whether the National Flood Insurance Program  
13          should be reorganized into another Federal  
14          agency.

15          (f) GAO STUDY.—Not later than 1 year after the  
16          date of the enactment of this Act, the Comptroller General  
17          of the United States shall conduct a study and submit a  
18          report to the Committee on Banking, Housing, and Urban  
19          Affairs of the Senate and the Committee on Financial  
20          Services of the House of Representatives, on the—

21               (1) composition of the remaining pre-FIRM  
22               structures that are explicitly receiving discounted  
23               premium rates under section 1307 of the National  
24               Flood Insurance Act of 1968 (42 U.S.C. 4104), in-  
25               cluding the historical basis for the receipt of such

1 subsidy and whether such subsidy has outlasted its  
2 purpose;

3 (2) number and fair market value of such struc-  
4 tures;

5 (3) respective income level of each owner of  
6 such structure;

7 (4) number of times each such structure has  
8 been sold since 1968, including specific dates, sales  
9 price, and any other information the Secretary de-  
10 termines appropriate;

11 (5) total losses incurred by such structures  
12 since the establishment of the National Flood Insur-  
13 ance Program compared to the total losses incurred  
14 by all structures that are charged a nondiscounted  
15 premium rate;

16 (6) total cost of foregone premiums since the  
17 establishment of the National Flood Insurance Pro-  
18 gram, as a result of the subsidies provided to such  
19 structures;

20 (7) annual cost to the taxpayer, as a result of  
21 the subsidies provided to such structures;

22 (8) the premium income collected and the losses  
23 incurred by the National Flood Insurance Program  
24 as a result of such explicitly subsidized structures  
25 compared to the premium income collected and the

1 losses incurred by such Program as result of struc-  
2 tures that are charged a nondiscounted premium  
3 rate, on a State-by-State basis; and

4 (9) the most efficient way to eliminate the sub-  
5 sidy to such structures.

6 (g) GAO STUDY ON DIRECT PURCHASE IN NON-  
7 PARTICIPATING COMMUNITIES.—Not later than 1 year  
8 after the date of enactment of this Act, the Comptroller  
9 General of the United States shall conduct a study and  
10 submit a report to the Committee on Banking, Housing,  
11 and Urban Affairs of the Senate and the Committee on  
12 Financial Services of the House of Representatives, on the  
13 feasibility of allowing individuals, residing in communities  
14 not currently participating in the National Flood Insur-  
15 ance Program, to purchase flood insurance from the Na-  
16 tional Flood Insurance Program on an actuarially sound  
17 basis.

Calendar No. 498

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

**S. 3589**

[Report No. 109-271]

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## **A BILL**

To amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

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JUNE 28, 2006

Read twice and placed on the calendar