109TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 109–410

# FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2006

APRIL 6, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services, submitted the following

## R E P O R T

together with

## ADDITIONAL VIEWS

[To accompany H.R. 4973]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 4973) to restore the financial solvency of the national flood insurance program, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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49–006

## Purpose and Summary

The purpose of H.R. 4973 is to restore the financial solvency of the National Flood Insurance Program and to increase the accountability of the Federal Emergency Management Agency with respect to its administration of the program.

The Flood Insurance Reform and Modernization Act of 2006 ("FIRM") increases the borrowing authority for the National Flood Insurance Program to $25 billion to help cover its contractual obligations to flood insurance policyholders, directs the Federal Emergency Management Agency to institute reforms in the program, increases the penalties for failure to enforce mandatory flood policy purchase requirements, and requires a study on: 1) pre-FIRM properties (those built before 1974) that currently receive subsidized flood insurance rates; 2) mandatory purchase requirement for the natural 100-year floodplain; and 3) mandatory purchase requirement for non-federally related loans and the Constitutionality of such requirement. This Act also includes numerous key reforms, including a phase-in of actuarial rates for vacation homes, second homes, and nonresidential properties.

## Background and Need for Legislation

The National Flood Insurance Program (NFIP) was created as part of the National Flood Insurance Act of 1968 to enable the Federal government to help cover the cost of flood damages. Prior to that time, insurance companies generally did not offer coverage for flood disasters because of the high risks involved. The legislation as amended in 1973 and 1994 authorizes the Federal Insurance Administration (FIA) and Mitigation Directorate to administer the NFIP as part of the Federal Emergency Management Agency (FEMA). Although FEMA has now been absorbed into the Department of Homeland Security, the NFIP continues to operate as it had before restructuring.

Since 1986, the NFIP has been financially self-supporting for the average historical loss year. Consistent with statute, the NFIP borrowed from the U.S. Treasury during those years in which the nation experienced unusually high flood losses. These loans were repaid to the Treasury, with interest, from policyholder premiums and related fees.

National Flood Insurance Program claims liabilities arising from Hurricanes Katrina and Rita are estimated at between $23 and $25 billion, far surpassing the total claims paid in the entire history of the NFIP. On September 20, 2005, the President signed into law the National Flood Insurance Enhanced Borrowing Authority Act of 2005 (P.L. 109–65), which authorized the NFIP temporarily to borrow up to $3.5 billion from the U.S. Treasury to pay claims. H.R. 4133, signed into law by the President on November 21, 2005, as P.L. 109–106, further increased FEMA's borrowing authority to $18.5 billion. A third borrowing authority increase (S. 2275) was signed into law on March 23, 2006 (P.L. 109–208) and increased FEMA's borrowing authority to $20.775 billion.

Despite the three borrowing authority increases, the NFIP will not have enough funds to pay all outstanding claims without another increase. FEMA estimates that they will deplete these funds no later than August, 2006. In the absence of additional borrowing authority, FEMA would eventually advise those insurance companies participating in the NFIP "Write-Your-Own" program (companies that sell flood policies on FEMA's behalf) that due to the absence of borrowing authority, the companies should stop processing claims. Given FEMA's legal obligation to pay the estimated 225,000 Katrina and Rita-related claims, homeowners who are not paid could initiate legal action against the U.S. Government. The increased borrowing authority (to $25 billion) in H.R. 4973 would ensure that all claims would be paid.

The dramatic impact of the 2005 hurricanes on the NFIP has highlighted the need for reforms to the program. Some much-needed reforms, passed by Congress as part of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, have yet to be implemented almost two years after that legislation was signed into law. Among the 2004 reforms are provisions to address costly repetitive flood-loss properties. A pilot program to allow communities to receive funding for flood mitigation activities was not funded for the first two years for which it was authorized and is set to expire in 2009. H.R. 4973 would extend the program into 2011 in order to reflect the original intent of the Flood Insurance Reform Act of 2004.

H.R. 4973 further directs FEMA to continue to work with the insurance industry, state insurance regulators, and other interested parties to implement the minimum training and education standards for all insurance agents who sell flood insurance policies that FEMA established under the notice published September 1, 2005 (70 Fed. Reg. 52117) pursuant to section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note). FEMA is also directed to finalize and confirm the establishment of an appeals process through which holders of a flood insurance policy could appeal decisions with respect to claims and proof of loss and to submit a report to Congress on the status of the implementation of all the 2004 reforms. Though the Committee recognizes that the hurricanes of 2005 and the series of catastrophic events in Florida in 2004 have occupied FEMA's resources, these reforms must be implemented.

Using the 2004 reforms as a foundation, H.R. 4973 requires FEMA to take steps that will make the NFIP more actuarially sound. Under the current program guidelines, structures built before 1974 or before the issuance of an area Flood Insurance Rate Map (maps that designate the 100-year floodplain) are known as "pre-FIRM" properties and are paying subsidized flood insurance rates. While some have called for actuarial rates on all pre-FIRM properties, the increased premiums would be a burden to some homeowners. H.R. 4973 therefore calls for the phased-in elimination subsidies only for pre-FIRM nonresidential properties, vacation homes, and second homes. This will ease the transition to higher prices, while still providing millions of dollars of much-needed additional funding for the NFIP. During Committee consideration of H.R. 4973, an amendment was offered that called for elimination of all subsidies on pre-FIRM properties at the time these properties are sold. The Committee intends to further review the potential impacts of this proposed reform, which was not incorporated into the final Committee-approved bill.

Other provisions of this legislation that will help make the NFIP more actuarially sound include an increase in fines for federally-regulated lending institutions that do not enforce mandatory purchase requirements from $350 to $2,000; an increase in the cap that any one lending institution can be fined in a given year from $100,000 to $1,000,000; authorization for FEMA to increase flood insurance premiums up to 15 percent annually on all properties; requirement of notice in RESPA good faith estimates that homeowners who are not legally obligated to purchase flood insurance under the mandatory purchase requirement can purchase an NFIP policy and escrow flood insurance payments; and a requirement that the Comptroller General study the possible extension of mandatory flood insurance purchase requirement to properties secured by non-federally related loans.

H.R. 4973 includes a number of much-needed reforms that will modernize the program and at the same time increase the amount of premiums generated. Coverage limits for NFIP flood insurance policies have remained static since 1994, without adjustment for inflation, and despite the fact that housing prices have multiplied in many areas. This legislation takes a reasonable approach by simply adjusting the current coverage limits to account for inflation. Coverage limits for residential properties will be increased from $250,000 to $335,000 and limits for residential contents coverage will be raised from $100,000 to $135,000. Coverage limits for non-residential properties will be increased from $500,000 to $670,000.

While structural damage is the most obvious by-product of flooding, other harms occur that can be just as devastating. One of the greatest expenses to FEMA following the 2005 hurricanes was for hotel rooms for displaced homeowners. H.R. 4973 would provide for $1,000 of living expenses for policyholders after a flood. Finished basements are not currently covered by a standard flood insurance policy. This legislation allows the NFIP to offer additional coverage to protect such basements at actuarial prices. Businesses also face other costs as a result of flooding that are not currently able to be covered by the NFIP; for example, a business that is flooded and cannot operate must still pay an assortment of expenses, including leases and payroll. This Act would allow commercial policyholders to purchase business interruption coverage at actuarial prices. Finally, replacement cost of contents coverage is made available as an option—again, at actuarial prices.

Because flood insurance policy requirements and rates are dependent on flood maps, these maps must be modernized to preserve the integrity of the program. Flood elevation maps must also be current so that homeowners in areas affected by events such as Hurricane Katrina can rebuild to proper levels after flooding. H.R. 4973 directs FEMA to certify the modernization of all flood maps and to map the 500-year floodplain, which will help homeowners across the country better understand their flood risks. For purposes of map modernization, $300 million is authorized for each of fiscal years 2007 through 2012. The bill also directs FEMA to maintain an inventory of all levees located in the U.S. and calls for a study on extending the mandatory purchase requirement to those structures protected by levees in the 100-year floodplain. As noted during markup of H.R. 4973, the Committee understands the importance of reviewing the status and condition of the nation's levees and will work to ensure that the NFIP incorporates updated information about the condition of these levees when establishing flood insurance premium rates. This legislation also requires FEMA to keep Congress informed about the progress of its mapping program by submitting annual reports and authorizes FEMA to hire additional staff to carry out this and other provisions of the bill.

Finally, in order for the NFIP to maintain adequate levels of solvency and operate efficiently, H.R. 4973 requires FEMA to submit a report to Congress on the financial status of the NFIP twice a year. Reforming the NFIP will be an ongoing process, and Congress needs up-to-date information in order to make informed policy decisions.

## HEARINGS

No hearings were held on this legislation.

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on March 15, 2006, to consider a Committee Print entitled “Flood Insurance Reform and Modernization Act of 2006”. The Committee Print, as amended, was introduced as H.R. 4973, and the Committee ordered H.R. 4973 reported to the House by voice vote on March 16, 2006.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

The following amendment to the Committee Print was decided by a record vote. The names of Members voting for and against follow:

> An amendment offered by Mr. Hensarling, No. 6, providing for immediate termination of subsidized rates, was NOT AGREED TO by a record vote of 10 yeas and 45 nays (Record vote no. FC–14).

RECORD VOTE NO. FC–14

| Representative | Aye | Nay | Present | Representative | Aye | Nay | Present |
|---|---|---|---|---|---|---|---|
| Mr. Oxley | .......... | X | .......... | Mr. Frank (MA) | .......... | X | .......... |
| Mr. Leach | .......... | X | .......... | Mr. Kanjorski | .......... | X | .......... |
| Mr. Baker | .......... | .......... | .......... | Ms. Waters | .......... | X | .......... |
| Ms. Pryce (OH) | .......... | X | .......... | Mr. Sanders | .......... | X | .......... |
| Mr. Bachus | X | .......... | .......... | Mrs. Maloney | .......... | X | .......... |
| Mr. Castle | .......... | X | .......... | Mr. Gutierrez | .......... | X | .......... |
| Mr. Royce | X | .......... | .......... | Ms. Velázquez | .......... | .......... | .......... |
| Mr. Lucas | .......... | X | .......... | Mr. Watt | .......... | .......... | .......... |
| Mr. Ney | .......... | X | .......... | Mr. Ackerman | .......... | .......... | .......... |
| Mrs. Kelly | .......... | X | .......... | Ms. Hooley | .......... | X | .......... |
| Mr. Paul | .......... | .......... | .......... | Ms. Carson | .......... | X | .......... |
| Mr. Gillmor | .......... | .......... | .......... | Mr. Sherman | .......... | X | .......... |
| Mr. Ryun (KS) | .......... | X | .......... | Mr. Meeks (NY) | .......... | X | .......... |
| Mr. LaTourette | .......... | X | .......... | Ms. Lee | .......... | X | .......... |
| Mr. Manzullo | .......... | X | .......... | Mr. Moore (KS) | .......... | X | .......... |
| Mr. Jones (NC) | .......... | X | .......... | Mr. Capuano | .......... | X | .......... |
| Mrs. Biggert | .......... | X | .......... | Mr. Ford | .......... | .......... | .......... |
| Mr. Shays | .......... | X | .......... | Mr. Hinojosa | .......... | .......... | .......... |

RECORD VOTE NO. FC–14—Continued

| Representative | Aye | Nay | Present | Representative | Aye | Nay | Present |
|---|---|---|---|---|---|---|---|
| Mr. Fossella | .......... | X | ............ | Mr. Crowley | .......... | X | ............ |
| Mr. Gary G. Miller (CA) | .......... | X | ............ | Mr. Clay | .......... | X | ............ |
| Mr. Tiberi | .......... | X | ............ | Mr. Israel | .......... | .......... | ............ |
| Mr. Kennedy (MN) | .......... | .......... | ............ | Mrs. McCarthy | .......... | X | ............ |
| Mr. Feeney | X | .......... | ............ | Mr. Baca | .......... | .......... | ............ |
| Mr. Hensarling | X | .......... | ............ | Mr. Matheson | .......... | X | ............ |
| Mr. Garrett (NJ) | X | .......... | ............ | Mr. Lynch | .......... | .......... | ............ |
| Ms. Brown-Waite (FL) | .......... | X | ............ | Mr. Miller (NC) | .......... | X | ............ |
| Mr. Barrett (SC) | X | .......... | ............ | Mr. Scott (GA) | .......... | X | ............ |
| Ms. Harris | .......... | X | ............ | Mr. Davis (AL) | .......... | X | ............ |
| Mr. Renzi | .......... | X | ............ | Mr. Al Green (TX) | .......... | X | ............ |
| Mr. Gerlach | .......... | X | ............ | Mr. Cleaver | .......... | .......... | ............ |
| Mr. Pearce | X | .......... | ............ | Ms. Bean | .......... | X | ............ |
| Mr. Neugebauer | .......... | .......... | ............ | Ms. Wasserman Schultz | .......... | X | ............ |
| Mr. Price (GA) | X | .......... | ............ | Ms. Moore (WI) | .......... | .......... | ............ |
| Mr. Fitzpatrick (PA) | .......... | X | ............ | | | | |
| Mr. Davis (KY) | .......... | X | ............ | | | | |
| Mr. McHenry | X | .......... | ............ | | | | |
| Mr. Campbell) | X | .......... | ............ | | | | |

Mr. Sanders is an independent, but caucuses with the Democratic Caucus.

The Committee considered the following other amendments:

An amendment offered by Ms. Wasserman Schultz, No. 1, requiring FEMA participation in state disaster claims mediation programs, was AGREED TO by a voice vote.

An amendment offered by Mr. Frank, No. 2, dealing with post-disaster flood elevation determinations, was AGREED TO by a voice vote.

An amendment offered by Mr. Price (on behalf of Mr. Hensarling), No. 3, striking the increase in coverage limits, was NOT AGREED TO by a voice vote.

An amendment offered by Mr. Watt, No. 4, providing emergency authorization for CDBG for areas impacted by Hurricane Katrina, was WITHDRAWN.

An amendment offered by Mr. Miller of California, No. 5, establishing penalties against regulated lending institution or enterprise, was AGREED TO by a voice vote.

An amendment offered by Mr. Hensarling, No. 7, striking section 8 (coverage for additional living expenses), was NOT AGREED TO by a voice vote.

An amendment offered by Mr. Hensarling, No. 8, decreasing borrowing authority, was NOT AGREED TO by a voice vote.

An amendment offered by Mr. Garrett, No. 9, changing "properties" to "certain pre-firm properties", was WITHDRAWN.

An amendment offered by Mr. Garrett, No. 10, to identify conditions of levees, was WITHDRAWN.

An amendment offered by Mr. Garrett, No. 11, insert after "feasibility of", ", and basis under the Constitution of the United States for," was AGREED TO by a voice vote.

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The goal of H.R. 4973 is to restore the financial solvency of the National Flood Insurance Program and to increase the accountability of the Federal Emergency Management Agency with respect to its administration of the program.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimates of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Congressional Budget Office estimates that reforms to the National Flood Insurance Program that would be initiated by H.R. 4973 would result in savings of $400 million over the 2007–2011 period and by about $1.5 billion over the 2007–2016 period. Changes in direct spending associated with this legislation are directly related to the fact that this bill addresses the need for an increase in the Program's borrowing authority necessary to fulfill the Program's legal obligation to pay claims arising from last year's hurricanes. This existing obligation must be considered under current law and budgetary scorekeeping rules.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

APRIL 4, 2006.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4973, the Flood Insurance Reform and Modernization Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

DONALD B. MARRON,
*Acting Director.*

Enclosure.

*H.R. 4973—Flood Insurance Reform and Modernization Act of 2006*

Summary: H.R. 4973 would increase the amount that the Federal Emergency Management Agency (FEMA) can borrow from the U.S. Treasury to cover expenses of the National Flood Insurance Program (NFIP). Under the legislation, FEMA's borrowing authority would increase from $20.8 billion to $25.0 billion. As a result, CBO estimates that enacting H.R. 4973 would increase direct spending by $1.4 billion in 2006 and $2.8 billion in 2007. By raising certain civil penalties, the bill would also increase governmental receipts (revenues) by an estimated $1 million per year.

In addition, the bill would reform the NFIP by requiring FEMA to phase in actuarially sound premium rates for flood insurance on commercial and nonprimary residences (i.e., second and vacation homes). H.R. 4973 also would authorize FEMA to expand the flood insurance program to include new types of insurance and higher dollar limits on the amount of coverage available. The bill would raise the cap on the average annual premium increase allowed for each risk category from 10 percent to 15 percent.

H.R. 4973 would increase the authorization of appropriations for FEMA's flood mitigation and flood mapping programs. Assuming appropriation of the authorized amounts, CBO estimates that resulting outlays would total about $1.1 billion over the 2007–2011 period and an additional $735 million after that period.

H.R. 4973 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments. H.R. 4973 would impose a private-sector mandate on certain mortgage lenders. Based on information from industry and government sources, CBO expects the direct costs to comply with the mandate would fall below the annual threshold for private-sector mandates established in UMRA ($128 million in 2006, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4973 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

| | By fiscal year, in millions of dollars— | | | | | |
|---|---|---|---|---|---|---|
| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
| CHANGES IN DIRECT SPENDING [1] | | | | | | |
| Net Spending Under Current Law for Flood Insurance: | | | | | | |
| Estimated Budget Authority | 20,775 | 0 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 20,775 | 0 | 0 | 0 | 0 | 0 |
| Proposed Changes: | | | | | | |
| Estimated Budget Authority | 1,425 | 2,800 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 1,425 | 2,800 | 0 | 0 | 0 | 0 |
| Net Spending Under H.R. 4973 for Flood Insurance: | | | | | | |
| Estimated Budget Authority | 22,200 | 2,800 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 22,200 | 2,800 | 0 | 0 | 0 | 0 |
| SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Spending Under Current Law for Flood Mitigation and Mapping: | | | | | | |
| Budget Authority | 226 | 0 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 223 | 211 | 73 | 30 | 0 | 0 |
| Proposed Changes: | | | | | | |
| Authorization Level | 0 | 300 | 300 | 300 | 340 | 340 |

| | By fiscal year, in millions of dollars— | | | | | |
|---|---|---|---|---|---|---|
| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
| Estimated Outlays | 0 | 70 | 195 | 255 | 300 | 325 |
| Spending Under H.R. 4973 for Flood Mitigation and Mapping: | | | | | | |
| Authorization Level | 226 | 300 | 300 | 300 | 340 | 340 |
| Estimated Outlays | 223 | 281 | 268 | 285 | 300 | 325 |

[1] In addition, CBO estimates that revenues would increase by about $1 million a year over the 2007–2016 period.

Basis of estimate: CBO estimates that enacting H.R. 4973 would increase direct spending by $1.4 billion in 2006 and $2.8 billion in 2007. In addition, assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would add $1.1 billion to discretionary outlays over the 2007–2011 period and an additional $735 million after that period.

*Direct spending*

Increase in Borrowing Authority. Through the NFIP, FEMA offers flood insurance in communities that conform to the program's standards for flood plain management. Under current law, if premiums from policy sales and interest income are insufficient to cover the program's costs, FEMA can borrow up to $20.8 billion from the U.S. Treasury. H.R. 4973 would increase the limit on FEMA's borrowing authority to $25.0 billion. Based on information from FEMA about the likely need to pay claims in response to recent hurricanes and the historical rate of claims processing for major floods, CBO expects that the agency would exercise some of that authority in 2006 and the rest in 2007, resulting in additional outlays of $1.4 billion in 2006 and $2.8 billion in 2007.

Current law requires FEMA to repay any borrowed funds (with interest) as it collects premiums, provided that the program's other costs are fully covered. However, CBO expects that the agency would be unlikely to repay funds borrowed under H.R. 4973 within the next 10 years because premium collections over that period will probably be used to pay interest on FEMA's debt and future flood insurance claims and expenses. The agency is likely to face additional claims of $800 million to $1 billion per year for flooding events around the country that typically occur each year. FEMA also will face debt-service costs of about $600 million in 2006 and over $1 billion in 2007 and subsequent years. CBO expects the program will have insufficient funds to pay all of those costs over the next 10 years.

Pre-FIRM Rate Increase. H.R. 4973 would authorize the NFIP to gradually increase rates on properties that are either nonresidential structures or not primary residences (such as vacation homes) that were built before the community's flood insurance rate map (FIRM) was completed (or before 1975, whichever is later). Such properties are known as pre-FIRM structures. Under current law and policies, most pre-FIRM structures are charged a flood insurance premium that is less than the full actuarial cost of the insurance. Thus, such policies are considered to be subsidized by the program. The bill would authorize FEMA to increase rates on those specified types of properties by 15 percent a year until the actuarial rate is achieved.

According to FEMA, approximately 450,000 properties meet those criteria, and the average premium for those properties is about $800 a year. CBO expects that owners of some of those properties would either drop flood insurance coverage or reduce their level of coverage in response to an increase in premium charges. In addition, CBO anticipates that the premiums on about 10 percent of the targeted properties would actually decrease as a result of this bill. CBO estimates that reducing the subsidy on these properties would increase receipts from flood insurance premiums by $400 million over the 2007–2011 period and by about $1.5 billion over the 2007–2016 period.

CBO anticipates that any additional receipts generated by increasing insurance premiums on those properties would be spent on paying future flood insurance claims that it would otherwise not have the resources to pay under current law—resulting in no net budgetary impact.

Increased Coverage Limits and New Lines of Coverage. H.R. 4973 would increase the total amount of flood insurance that residential customers can buy from $350,000 to $470,000. The bill also would increase the total amount of flood insurance that commercial businesses can buy from $1 million to $1.3 million. In addition, the bill would authorize FEMA to offer four new lines of optional insurance coverage—for living expenses and basement repairs for residential properties, business interruption for commercial properties, and additional contents coverage for residential and commercial property.

The NFIP currently has approximately 4.7 million policies in force, with a total exposure of nearly $800 billion. Those policyholders pay over $2 billion in premiums to the federal government annually. CBO assumes that the increased coverage limits and new lines of coverage would be offered to policyholders when they initiate or renew their coverage. The new coverage would be offered at actuarial rates. These new lines of coverage would increase premium receipts to the federal government, which would be roughly offset by additional claims payments.

Increase in Annual Limitation on Rate Increases. H.R. 4973 would authorize the NFIP to increase rates on policies within a specified risk category by an average of 15 percent per year. Under current law, the limit on rate increases is 10 percent. CBO estimates that raising this limit would have no significant impact on the federal budget because FEMA has not increased rates by as much as 10 percent in the past and does not appear to be constrained in its rate-setting process by the current cap on premiums. If additional receipts were generated as a result of this provision, CBO expects that such funds would be spent to pay future flood insurance claims that it would otherwise not have the resources to pay under current law—resulting in no net budgetary impact.

Civil Penalties. Section 6 of H.R. 4973 would increase the civil penalty from $350 to $2,000 for lenders that do not enforce the mandatory purchase requirement. CBO estimates that the increased revenue from the civil penalties established under this bill would amount to about $1 million a year.

*Spending subject to appropriation*

Mitigation of Severe-Repetitive-Loss Properties. Section 13 would extend for two years the authorization of appropriations for the mitigation pilot program that funds preventive measures for properties that have sustained four or more losses totaling more than $20,000, or two or more losses that cumulatively exceed the value of the property. Under current law, up to $40 million a year from the National Flood Insurance Fund can be used for this program through 2009. Based on historical outlay rates for mitigation projects, CBO estimates that implementing this section would cost about $45 million over the 2007–2011 period and an additional $35 million after that period.

Flood Mapping Program. Section 16 would authorize the appropriation of $300 million a year over the 2007–2012 period for updating flood maps to include the 500-year flood plain and areas that would be flooded if a dam or levee failed. In addition, the bill would reestablish the Technical Mapping Advisory Council to assist with managing flood mapping activities. Based on historical outlay rates for this program, CBO estimates that implementing this section would cost $1.1 billion over the 2007–2011 period and an additional $700 million in subsequent years.

GAO Study. Section 3 would authorize the Government Accountability Office (GAO) to conduct a study to assess the status of pre-FIRM properties and the feasibility of extending the mandatory purchase requirement to nonfederally insured mortgages and those properties in the "natural" 100-year flood plain (i.e., those properties behind levees and dams). CBO estimates that this provision would cost less than $500,000 in fiscal year 2007.

Staff Increases. Section 19 of the bill would authorize FEMA to hire additional staff to implement the provisions of this bill. Under current law, the NFIP collects about $125 million a year from administrative fees that are collected in conjunction with annual insurance premiums. Subject to appropriation, those fees can be spent on salaries and expenses related to flood insurance operations and flood mitigation. The amount of increased administrative costs that would result from the bill is uncertain because FEMA does not yet know how it would implement various provisions. If staffing increases were significant, however, it is likely that the NFIP would raise the administrative fees assessed on policyholders, and that added income from those fees would offset the increased spending on salaries and expenses.

Estimated Impact on State, local, and tribal governments: H.R. 4973 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.R. 4973 would impose a private-sector mandate, as defined in UMRA, on certain mortgage lenders. Based on information from industry and government sources, CBO expects the direct costs to comply with the mandate would be small—less than the annual threshold for private-sector mandates established in UMRA ($128 million in 2006, adjusted annually for inflation).

Under current law, mortgage lenders that make federally-related mortgages are required to provide a good faith estimate of the amount or range of charges the borrower is likely to incur for specific settlement services. The bill would require such mortgage lenders to include in each estimate a conspicuous statement that flood insurance coverage for residential real estate is generally available under the National Flood Insurance Program, whether or not the real estate is located in an area subject to special flood hazards, and that, to obtain such coverage, a homeowner or purchaser should contact a property insurance agent, broker, or company. The good faith estimate would also be required to contain the statement that the escrowing of flood insurance payments is required for many loans under section 102(d) of the Flood Disaster Protection Act of 1973, and may be a convenient and available option with respect to other loans. According to industry representatives, the cost for mortgage lenders to include additional statements in such an estimate would be minimal.

Estimated prepared by: Federal Costs: Julie Middleton and Perry Beider. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Paige Paper/Bach.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

### *Section 1. Short title and table of contents*

This section establishes the short title of the bill, the “Flood Insurance Reform and Modernization Act of 2006.” This section also contains a table of contents, setting out the title of each subsequent section.

### *Section 2. Findings and purposes*

This section sets forth certain findings regarding the need for reform of and increased borrowing authority for the national flood insurance program. This section also establishes the purposes of the Act.

*Section 3. Study regarding status of pre-FIRM properties and mandatory purchase requirement for natural 100-year floodplain and non-federally related loans*

This section requires the Comptroller General of the United States to conduct a study on the effects of extending the mandatory flood insurance purchase requirement to all properties located in a flood hazard area, whether or not the mortgage on the property is federally-backed. This section also requires the Comptroller General to study coverage for pre-FIRM properties (properties built before 1974 that receive subsidized insurance rates), as well as the effects of extending the mandatory purchase requirement to properties protected by dams and levees. This report is to be submitted to the Congress no later than 6 months from the enactment of this Act.

*Section 4. Phase-in of actuarial rates for nonresidential properties and non-primary residences*

This section amends section 1308(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(c)) by establishing that nonresidential properties and non-primary residences will be charged actuarial, instead of subsidized, rates. This change to actuarial pricing for these properties will be implemented over time.

*Section 5. Reduction of waiting period for effective date of policies*

This section amends subsection (c)(1) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)) by reducing the number of days a newly-purchased or modified flood insurance policy will become effective from 30 days to 15 days.

*Section 6. Enforcement*

This section amends paragraph (5) of section 102(f) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) by increasing to $2,000 the fine levied against federally-regulated lending institutions for each failure to enforce mandatory flood insurance purchase requirements and increasing the year cap on fines for institutions to $1,000,000.

*Section 7. Maximum coverage limits*

This section amends subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) by increasing the maximum coverage limits for flood insurance policies to reflect inflation. New coverage limits would be $335,000 for residences; $135,000 for residential contents; and $670,000 for businesses and churches.

*Section 8. Coverage for additional living expenses, basement improvements, business interruption, and replacement cost of contents*

This section amends subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) by requiring FEMA to include in each renewal or new contract for flood insurance at least $1,000 for living expenses following a flood event. This section also requires FEMA to provide actuarially-priced, optional residential basement coverage for flood losses. Actuarially-priced business interruption coverage for flood losses is also to be provided by FEMA for commercial properties. This section also requires FEMA to provide actuarially-priced contents coverage for both residential and commercial properties.

*Section 9. Increase in annual limitation on premium increases*

This section amends section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) by increasing the annual limitation on premium increases from 10 percent to 15 percent.

*Section 10. Increase in borrowing authority*

This section amends subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (P.L. 109–65; 119 Stat. 1998), by increasing the national flood insurance program's borrowing authority to $25 billion. This section also requires that FEMA submit a report to Congress, not later than 6 months after enactment of this legislation, on how it intends to repay funds borrowed under this increased authority.

*Section 11. FEMA participation in state disaster claims mediation programs*

This section requires FEMA, upon request of a state insurance commissioner, to participate in a state disaster claims mediation program for the non-binding mediation of flood insurance claims.

*Section 12. FEMA reports on financial status of insurance program*

This section amends section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) by requiring a semiannual report to Congress on the financial status of the national flood insurance program.

*Section 13. Extension of pilot program for mitigation of severe repetitive loss properties*

This section amends section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a) by extending the current pilot program, which is set to expire September 30, 2009, into 2011.

*Section 14. Notice of availability of flood insurance and escrow in RESPA good faith estimate*

This section amends subsection (c) of section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) by requiring that each good faith estimate include a conspicuous statement that flood insurance coverage for residential real estate is generally available under the national flood insurance program whether or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact a hazard insurance provider. Also, the estimate should note that escrowing of flood insurance payments is required for many loans under the Flood Disaster Protection Act of 1973, but may be convenient and available for other loans as well.

*Section 15. Reiteration of FEMA responsibilities under 2004 Reform Act*

This section reiterates FEMA's responsibility to implement provisions of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (P.L. 108–264) and directs FEMA to continue to work with the insurance industry, state insurance regulators, and other interested parties to implement the minimum training and education standards for all insurance agents who sell flood insurance policies that FEMA established under the notice published September 1, 2005 (70 Fed. Reg. 52117) pursuant to section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011). This section also mandates that FEMA submit a report to Congress on implementation of each provision of P.L. 108–264 no later than 6 months after the enactment of this Act.

*Section 16. Updating of flood maps and elevation standards*

This section directs the FEMA Director to establish a program within FEMA to review, update, and maintain national flood insurance program rate maps. This section also requires the FEMA Director to submit an annual report to Congress detailing the updating and modernization of the floodplain elevation maps. The first such report must be submitted to Congress by June 30, 2006 and each subsequent annual report must be submitted to Congress by June 30 of each year. This section also directs FEMA to give priority to the updating of flood maps and elevations for areas affected by Hurricane Katrina or Hurricane Rita. $300,000,000 is authorized for mapping for each of fiscal years 2007 through 2012. A technical mapping advisory council is reestablished at FEMA in order to make recommendations to the Director on mapping issues. This section also directs the Director to facilitate expedited community adoption of updated advisory flood level elevations after a flood disaster.

*Section 17. National levee inventory*

This section directs the FEMA Director to maintain and periodically publish an inventory of levees located in the U.S., so that these levees can be identified for national flood insurance program purposes.

*Section 18. Clarification of replacement cost provisions, forms, and policy language*

This section directs FEMA, within 3 months of enactment, to issue regulations and revise materials that it makes available through the NFIP to clarify the applicability of replacement cost coverage under the national flood insurance program. This section also requires FEMA, within 3 months of enactment, to revise standard flood insurance policy materials so that rating and coverage descriptions are consistent with language used in other homeowners and property and casualty insurance policies.

*Section 19. Authorization of additional FEMA staff*

This section authorizes necessary funds be appropriated for the Director of FEMA to employ additional staff necessary to carry out all of the responsibilities of the Director under this Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## NATIONAL FLOOD INSURANCE ACT OF 1968

* * * * * * *

## TITLE XIII—NATIONAL FLOOD INSURANCE

* * * * * * *

## CHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

* * * * * * *

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 1306. (a) * * *

(b) In addition to any other terms and conditions under subsection (a), such regulations shall provide that—

(1) * * *

(2) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant of insurance so as to enable such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(i)) of ❲$250,000❳ *$335,000*;

(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(ii)) of ❲$100,000❳ *$135,000*;

(4) in the case of any nonresidential property, including churches, for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of ❲$500,000❳ *$670,000* for each structure and ❲$500,000❳ *$670,000* for any contents related to each structure; ❲and❳

(5) any flood insurance coverage *pursuant to paragraph (2), (3), or (4)* which may be made available in excess of the limits

specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1), and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable**[**.**]***;*

*(6) in the case of any residential property, each renewal or new contract for flood insurance coverage shall provide not less than $1,000 aggregate liability per dwelling unit for any necessary increases in living expenses incurred by the insured when losses from a flood make the residence unfit to live in, which coverage shall be available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);*

*(7) in the case of any residential property, optional coverage for additional living expenses described in paragraph (6) shall be made available to every insured upon renewal and every applicant in excess of the limits provided in paragraph (6) in such amounts and at such rates as the Director shall establish, except that such chargeable rates shall not be less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);*

*(8) in the case of any residential property, optional coverage for losses, resulting from floods, to improvements and personal property located in basements, crawl spaces, and other enclosed areas under buildings that are not covered by primary flood insurance coverage under this title, shall be made available to every insured upon renewal and every applicant, except that such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);*

*(9) in the case of any commercial property, optional coverage for losses resulting from any partial or total interruption of the insured's business caused by damage to, or loss of, such property from a flood shall be made available to every insured upon renewal and every applicant, except that—*

*(A) for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood not occurred; and*

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

*(10) in the case of any residential property and any commercial property, optional coverage for the full replacement costs of any contents related to the structure that exceed the limits of coverage otherwise provided in this subsection shall be made available to every insured upon renewal and every applicant, except that such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1).*

* * * * * * *

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 1308. (a) * * *

* * * * * * *

(c) ACTUARIAL RATE PROPERTIES.—[Subject only to the limitations provided under paragraphs (1) and (2), the] *The* chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1) with respect to the following properties:

(1) POST-FIRM PROPERTIES.—Any property the construction or substantial improvement of which the Director determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Director under paragraph (2) of section 1360 for the area in which such property is located, whichever is later[, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e)].

*(2) NONRESIDENTIAL PROPERTIES.—Any nonresidential property.*

*(3) NON-PRIMARY RESIDENCES.—Any residential property that is not the primary residence of an individual.*

[(2)] *(4)* CERTAIN LEASED COASTAL AND RIVER PROPERTIES.—Any property leased from the Federal Government (including residential and nonresidential properties) that the Director determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.

* * * * * * *

(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—Except with respect to properties described under [paragraph (2) or (3)] *paragraph (4)* of subsection (c), and notwithstanding any other provision of this title, the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding [10 percent] *15 percent* of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period.

* * * * * * *

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

*(a) REQUIREMENT TO PARTICIPATE.—In the case of the occurrence of a natural catastrophe that may result in flood damage claims under the national flood insurance program, upon a request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the participation of representatives of the Director in a program sponsored by such State for nonbinding mediation of insurance claims resulting from a natural catastrophe, the Director shall cause appropriate representatives of national flood insurance program to participate in such State program to expedite settlement of any flood damage claims under the national flood insurance program resulting from such catastrophe.*

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

*(1) providing adjusters certified for purposes of the national flood insurance program who are authorized to settle claims against such program resulting from such catastrophe in amounts up to the limits of policies under such program;*

*(2) requiring such adjusters to attend State-sponsored mediation meetings regarding flood insurance claims resulting from such catastrophe at times and places as may be arranged by the State;*

*(3) participating in good-faith negotiations toward the settlement of such claims with policyholders of coverage made available under the national flood insurance program; and*

*(4) finalizing the settlement of such claims on behalf of the national flood insurance program with such policyholders.*

*(c) COORDINATION.—Adjusters representing the national flood insurance program who participate pursuant to subsection (b)(1) in a State-sponsored mediation program with respect to a natural catastrophe shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purpose of consolidating and expediting the settlement of claims under the national flood insurance program resulting from such catastrophe at the earliest possible time.*

* * * * * * *

【REPORT TO THE PRESIDENT】 *REPORTS*

SEC. 1320. (a) 【IN GENERAL】 *BIENNIAL REPORT TO PRESIDENT.*—The Director shall biennially submit a report of operations under this title to the President for submission to the Congress.

* * * * * * *

*(c) SEMIANNUAL REPORTS TO CONGRESS ON FINANCIAL STATUS.—Not later than June 30 and December 31 of each year, the Director shall submit a report to the Congress regarding the financial status of the national flood insurance program under this title. Each such report shall describe the financial status of the National Flood Insurance Fund and current and projected levels of claims, premium receipts, expenses, and borrowing under the program.*

* * * * * * *

## CHAPTER III—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

* * * * * * *

IDENTIFICATION OF FLOOD-PRONE AREAS

SEC. 1360. (a) * * *

* * * * * * *

*(k) PROGRAM TO REVIEW, UPDATE, AND MAINTAIN FLOOD INSURANCE PROGRAM MAPS.—*

*(1) IN GENERAL.—The Director, in coordination with the Technical Mapping Advisory Council established pursuant to*

*section 576 of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101 note) and section 16(c) of the Flood Insurance Reform and Modernization Act of 2006, shall establish a program under which the Director shall review, update, and maintain national flood insurance program rate maps in accordance with this subsection.*

*(2) INCLUSIONS.—*

*(A) COVERED AREAS.—Each map updated under this subsection shall include a depiction of—*

*(i) the 500-year floodplain;*

*(ii) areas that could be inundated as a result of the failure of a levee, as determined by the Director; and*

*(iii) areas that could be inundated as a result of the failure of a dam, as identified under the National Dam Safety Program Act (33 U.S.C. 467 et seq.).*

*(B) OTHER INCLUSIONS.—In updating maps under this subsection, the Director may include—*

*(i) any relevant information on coastal inundation from—*

*(I) an applicable inundation map of the Corps of Engineers; and*

*(II) data of the National Oceanic and Atmospheric Administration relating to storm surge modeling;*

*(ii) any relevant information of the Geographical Service on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Director; and*

*(iii) a description of any hazard that might impact flooding, including, as determined by the Director—*

*(I) land subsidence and coastal erosion areas;*

*(II) sediment flow areas;*

*(III) mud flow areas;*

*(IV) ice jam areas; and*

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

*(3) STANDARDS.—In updating and maintaining maps under this subsection, the Director shall establish standards to—*

*(A) ensure that maps are adequate for—*

*(i) flood risk determinations; and*

*(ii) use by State and local governments in managing development to reduce the risk of flooding; and*

*(B) facilitate the Director, in conjunction with State and local governments, to identify and use consistent methods of data collection and analysis in developing maps for communities with similar flood risks, as determined by the Director.*

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

*(A) give priority to the updating and maintenance of maps of coastal areas affected by Hurricane Katrina or Hurricane Rita to provide guidance with respect to hurricane recovery efforts; and*

*(B) use the process of updating and maintaining maps under subparagraph (A) as a model for updating and maintaining other maps.*

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

*(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Director to carry out this subsection $300,000,000 for each of fiscal years 2007 through 2012.–*

**SEC. 1361A. PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.**

(a) * * *

* * * * * * *

(k) FUNDING.—

(1) IN GENERAL.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to provide assistance under this section in each of fiscal years 2005, 2006, 2007, 2008, ❲and 2009❳ *2009, 2010, and 2011*, except that the amount so used in each such fiscal year may not exceed $40,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.

* * * * * * *

(l) TERMINATION.—The Director may not provide assistance under this section to any State or community after ❲September 30, 2009❳ *September 30, 2011*.

APPEALS

SEC. 1363. (a) * * *

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*(h) EXPEDITED COMMUNITY ADOPTION OF POST-DISASTER ADVISORY FLOOD ELEVATIONS.—If the Director determines that it is appropriate to examine flood elevation determinations after flood-related disasters, to incorporate data gathered since the publication of an effective flood insurance rate map or other flood hazard map and to issue advisory flood elevations, the Director shall expedite the notification and publication procedures in this section. The Director shall require community adoption of the advisory flood elevation information under such expedited procedures for the purposes of local land use and control measures and for the purposes of facilitating flood-resistant reconstruction when Federal funds are made available. Expediting the notification and publication procedures shall be*

*accomplished to preserve all rights to submit information and to appeal the Director's findings.*

* * * * * * *

## FLOOD DISASTER PROTECTION ACT OF 1973

* * * * * * *

## TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

* * * * * * *

FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS

SEC. 102. (a) * * *

* * * * * * *

(f) CIVIL MONETARY PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.—

(1) * * *

* * * * * * *

(5) AMOUNT.—A civil monetary penalty under this subsection may not exceed ⟦$350⟧ *$2,000* for each violation under paragraph (2) or paragraph (3). The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed ⟦$100,000⟧ *$1,000,000*.

(6) LENDER COMPLIANCE.—Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b). *No penalty may be imposed under this subsection on a regulated lending institution or enterprise that has made a good faith effort to comply with the requirements of the provisions referred to in paragraph (2) or for any non-material violation of such requirements.*

* * * * * * *

## REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

* * * * * * *

SPECIAL INFORMATION BOOKLETS

SEC. 5. (a) * * *

* * * * * * *

(c) Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Secretary. Such booklets shall take into consideration differences in real estate settlement procedures which may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory. *Each such good faith estimate shall include the following conspicuous statements: (1) that flood insurance coverage for residential real estate is generally available under the National Flood Insurance Program whether or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact a property insurance agent, broker, or company; and (2) that the escrowing of flood insurance payments is required for many loans under section 102(d) of the Flood Disaster Protection Act of 1973, and may be a convenient and available option with respect to other loans.*

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**NATIONAL FLOOD INSURANCE REFORM ACT OF 1994**

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# TITLE V—NATIONAL FLOOD INSURANCE REFORM

* * * * * * *

## Subtitle F—Miscellaneous Provisions

* * * * * * *

**SEC. 576. TECHNICAL MAPPING ADVISORY COUNCIL.**

(a) * * *

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director of the Federal Emergency Management Agency (in this section referred to as the "Director"), or the Director's designee, and 10 additional members to be appointed by the Director or the designee of the Director, who shall be—

(A) * * *

* * * * * * *

*(E) a representative of the Corps of Engineers of the United States Army;*

【(E)】 *(F)* a representative of the United States Geologic Survey;

【(F)】 *(G)* a representative of State geologic survey programs;

【(G)】 *(H)* a representative of State national flood insurance coordination offices;

*(I) a representative of local or regional flood and stormwater agencies;*

*(J) a representative of State geographic information coordinators;*

【(H)】 *(K)* a representative of a regulated lending institution;

*(L) a representative of flood insurance servicing companies;*

⟦(I)⟧ *(M)* a representative of the Federal Home Loan Mortgage Corporation; and

⟦(J)⟧ *(N)* a representative of the Federal National Mortgage Association.

* * * * * * *

⟦(c) DUTIES.—The Council shall—

⟦(1) make recommendations to the Director on how to improve in a cost-effective manner the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps;

⟦(2) recommend to the Director mapping standards and guidelines for flood insurance rate maps; and

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

⟦(A) a description of the activities of the Council;

⟦(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as established pursuant to the amendment made by section 675 ; and

⟦(C) a summary of recommendations made by the Council to the Director.⟧

*(c) DUTIES.—The Council shall—*

*(1) make recommendations to the Director for improvements to the flood map modernization program under section 1360(k) of the National Flood Insurance Act of 1968 (42 U.S.C. 41010(k));*

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

*(3) submit an annual report to the Director that contains a description of the activities and recommendations of the Council.*

* * * * * * *

(k) TERMINATION.—The Council shall terminate 5 years after the date on which all members of the Council have been appointed ⟦under subsection (b)(1)⟧ *pursuant to subsection (b)(1) of this section and section 16(c)(3) of the Flood Insurance Reform and Modernization Act of 2006.*

* * * * * * *

## ADDITIONAL VIEWS

### Flood Insurance Report Language

During deliberation of the underlying bill, I offered and withdrew an amendment that would, after date of enactment of the bill, require any purchaser of a pre-firm primary residential house to pay phased-in actuarial flood insurance prices using the same phase-in structure that non-residential and non-primary homes are subject to in the legislation.

It is my hope that this language will be incorporated into the final version of the bill. I feel this change will provide additional resources to the flood insurance program in a fair way and not subject current home owners of pre-firm houses to unanticipated or unplanned for increases in the flood insurance premiums.

Chairman Oxley, Ranking Member Frank and Congressman Baker all spoke favorably of the amendment and indicated that they would work with me on finding an appropriate way to include the language into the legislation moving forward.

Scott Garrett.