

117TH CONGRESS
1ST SESSION

S. _____

To reauthorize the National Flood Insurance Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To reauthorize the National Flood Insurance Program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Flood Insur-
5 ance Program Reauthorization and Reform Act of 2021”.

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

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

TITLE I—REAUTHORIZATION AND AFFORDABILITY

Sec. 101. Reauthorization.

2

- Sec. 102. Cap on annual premium increases.
- Sec. 103. Targeted means-tested assistance.
- Sec. 104. Optional monthly installment premium payment plans.
- Sec. 105. Study on business interruption coverage.
- Sec. 106. Cooperative coverage fairness.
- Sec. 107. Coverage limits.
- Sec. 108. Study on participation rates.
- Sec. 109. National Flood Insurance Act definitions regarding the Write Your Own program.

TITLE II—MITIGATION AND MAPPING

- Sec. 201. Mitigation for high-risk properties.
- Sec. 202. Increased cost of compliance coverage.
- Sec. 203. Flood mitigation assistance grants.
- Sec. 204. Urban mitigation opportunities.
- Sec. 205. Community Rating System Regional Coordinator.
- Sec. 206. Mitigation loan program.
- Sec. 207. Revolving loan funds.
- Sec. 208. Mapping modernization.
- Sec. 209. Levee-protected areas.
- Sec. 210. Community-wide flood mitigation activities.

TITLE III—SOLVENCY

- Sec. 301. Forbearance on NFIP interest payments.
- Sec. 302. Cap on Write Your Own company compensation.
- Sec. 303. Third party service provider costs; transparency.
- Sec. 304. Availability of NFIP claims data.
- Sec. 305. Refusal of mitigation assistance.
- Sec. 306. Multiple structure mitigation.

TITLE IV—POLICYHOLDER PROTECTION AND FAIRNESS

- Sec. 401. Earth movement fix and engineer standards.
- Sec. 402. Coverage of pre-FIRM condominium basements and study on street raising.
- Sec. 403. Guidance on remediation and policyholder duties.
- Sec. 404. Appeal of decisions relating to flood insurance coverage.
- Sec. 405. Accountability for underpayments and overpayments by Write Your Own companies.
- Sec. 406. Policyholders' right to know.
- Sec. 407. Exclusion of service providers from participation in the National Flood Insurance Program.
- Sec. 408. Deadline for claim processing.
- Sec. 409. No manipulation of engineer reports.
- Sec. 410. Improved training of floodplain managers, agents, and adjusters.
- Sec. 411. Flood insurance continuing education and training.
- Sec. 412. Shifting of attorney fees and other expenses.
- Sec. 413. Restriction on defense of claims litigation.
- Sec. 414. Reforming use of proof of loss forms.
- Sec. 415. Agent Advisory Council.
- Sec. 416. Disclosure of flood risk information prior to transfer of property.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-
4 trator” means the Administrator of the Federal
5 Emergency Management Agency.

6 (2) NATIONAL FLOOD INSURANCE PROGRAM.—
7 The term “National Flood Insurance Program”
8 means the program established under the National
9 Flood Insurance Act of 1968 (42 U.S.C. 4001 et
10 seq.).

11 (3) NATIONAL FLOOD MITIGATION FUND.—The
12 term “National Flood Mitigation Fund” means the
13 fund established under section 1367 of the National
14 Flood Insurance Act of 1968 (42 U.S.C. 4104d).

15 (4) WRITE YOUR OWN COMPANY.—The term
16 “Write Your Own Company” has the meaning given
17 the term in section 1370(a) of the National Flood
18 Insurance Act of 1968 (42 U.S.C. 4121(a)), as
19 amended by section 109 of this Act.

20 **TITLE I—REAUTHORIZATION**
21 **AND AFFORDABILITY**

22 **SEC. 101. REAUTHORIZATION.**

23 (a) IN GENERAL.—

24 (1) FINANCING.—Section 1309(a) of the Na-
25 tional Flood Insurance Act of 1968 (42 U.S.C.

1 4016(a)) is amended by striking “September 30,
2 2021” and inserting “September 30, 2026”.

3 (2) PROGRAM EXPIRATION.—Section 1319 of
4 the National Flood Insurance Act of 1968 (42
5 U.S.C. 4026) is amended by striking “September
6 30, 2021” and inserting “September 30, 2026”.

7 (3) RETROACTIVE EFFECTIVE DATE.—If this
8 Act is enacted after December 3, 2021, the amend-
9 ments made by paragraphs (1) and (2) shall take ef-
10 fect as if enacted on December 3, 2021.

11 (b) CONTINUED OPERATION DURING LAPSE OF AP-
12 PROPRIATIONS.—Section 1310(f) of the National Flood
13 Insurance Act of 1968 (42 U.S.C. 4017(f)) is amended—

14 (1) by inserting “(1)” after “(f)”; and

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

16 “(2)(A) In this paragraph, the term ‘period of a lapse
17 in appropriations from the Fund’ means a period, on or
18 after the first day of a fiscal year, during which an appro-
19 priation Act for the fiscal year with respect to the Fund
20 has not been enacted and continuing appropriations are
21 not in effect for the fiscal year with respect to the Fund.

22 “(B) Notwithstanding paragraph (1), during a period
23 of a lapse in appropriations from the Fund, amounts in
24 the Fund not otherwise appropriated shall be available to
25 the Administrator to carry out the flood insurance pro-

1 gram under this title, subject to the same terms and condi-
2 tions (except with respect to the period of availability),
3 and in an amount not greater than the rate for operations,
4 provided for the Fund in the most recently enacted regular
5 or continuing appropriation Act.

6 “(C) Amounts in the Fund shall be available under
7 subparagraph (B) for a fiscal year during the period be-
8 ginning on the first day of a period of a lapse in appropria-
9 tions from the Fund during the fiscal year and ending on
10 the date on which the regular appropriation Act for the
11 fiscal year with respect to the Fund is enacted (whether
12 or not such law makes amounts available from the Fund)
13 or a law making continuing appropriations with respect
14 to the Fund is enacted, as the case may be.

15 “(D) Expenditures and obligations made under this
16 paragraph shall be charged to the Fund whenever a reg-
17 ular appropriation Act, or a law making continuing appro-
18 priations, with respect to the Fund is enacted for the ap-
19 plicable fiscal year.”.

20 **SEC. 102. CAP ON ANNUAL PREMIUM INCREASES.**

21 (a) DEFINITION.—In this section, the term “covered
22 cost”—

23 (1) means—

1 (A) the amount of an annual premium
2 with respect to any policy for flood insurance
3 under the National Flood Insurance Program;

4 (B) any surcharge imposed with respect to
5 a policy described in subparagraph (A) (other
6 than a surcharge imposed under section
7 1304(b) of the National Flood Insurance Act of
8 1968 (42 U.S.C. 4011(b))), including a sur-
9 charge imposed under section 1308A(a) of that
10 Act (42 U.S.C. 4015a(a)); and

11 (C) a fee described in paragraph (1)(B)(iii)
12 or (2) of section 1307(a) of the National Flood
13 Insurance Act of 1968 (42 U.S.C. 4014(a));
14 and

15 (2) does not include any cost associated with
16 the purchase of insurance under section 1304(b) of
17 the National Flood Insurance Act of 1968 (42
18 U.S.C. 4011(b)), including any surcharge that re-
19 lates to insurance purchased under such section
20 1304(b).

21 (b) LIMITATION ON INCREASES.—

22 (1) LIMITATION.—

23 (A) IN GENERAL.—During the 5-year pe-
24 riod beginning on the date of enactment of this
25 Act, notwithstanding section 1308(e) of the Na-

1 tional Flood Insurance Act of 1968 (42 U.S.C.
2 4015(e)), and subject to subparagraph (B), the
3 Administrator may not, in any year, increase
4 the amount of any covered cost by an amount
5 that is more than 9 percent, as compared with
6 the amount of the covered cost during the pre-
7 vious year, except where the increase in the cov-
8 ered cost relates to an exception under para-
9 graph (1)(C)(iii) of such section 1308(e).

10 (B) DECREASE OF AMOUNT OF DEDUCT-
11 IBLE OR INCREASE IN AMOUNT OF COV-
12 ERAGE.—In the case of a policyholder described
13 in section 1308(e)(1)(C)(ii) of the National
14 Flood Insurance Act of 1968 (42 U.S.C.
15 4015(e)(1)(C)(ii)), the Administrator shall es-
16 tablish a process by which the Administrator
17 determines an increase in covered costs for the
18 policyholder that is—

19 (i) proportional to the relative change
20 in risk based on the action taken by the
21 policyholder; and

22 (ii) in compliance with subparagraph

23 (A).

24 (2) NEW RATING SYSTEMS.—

1 (A) CLASSIFICATION.—With respect to a
2 property, the limitation under paragraph (1)
3 shall remain in effect for each year until the
4 covered costs with respect to the property re-
5 flect full actuarial rates, without regard to
6 whether, at any time until the year in which
7 those covered costs reflect full actuarial rates,
8 the property is rated or classified under the
9 Risk Rating 2.0 methodology (or any substan-
10 tially similar methodology).

11 (B) NEW POLICYHOLDER.—If a property
12 to which the limitation under paragraph (1) ap-
13 plies is sold before the covered costs for the
14 property reflect full actuarial rates determined
15 under the Risk Rating 2.0 methodology (or any
16 substantially similar methodology), that limita-
17 tion shall remain in effect for each year until
18 the year in which those full actuarial rates
19 takes effect.

20 (c) RULE OF CONSTRUCTION.—Nothing in sub-
21 section (b) may be construed as prohibiting the Adminis-
22 trator from reducing, in any year, the amount of any cov-
23 ered cost, as compared with the amount of the covered
24 cost during the previous year.

1 (d) AVERAGE HISTORICAL LOSS YEAR.—Section
2 1308 of the National Flood Insurance Act of 1968 (42
3 U.S.C. 4015) is amended by striking subsection (h) and
4 inserting the following:

5 “(h) RULE OF CONSTRUCTION.—For purposes of this
6 section, the calculation of an ‘average historical loss year’
7 shall be computed in accordance with generally accepted
8 actuarial principles.”.

9 (e) DISCLOSURE WITH RESPECT TO THE AFFORD-
10 ABILITY STANDARD.—Section 1308(j) of the National
11 Flood Insurance Act of 1968 (42 U.S.C. 4015(j)) is
12 amended, in the second sentence, by inserting “and shall
13 include in the report the number of those exceptions as
14 of the date on which the Administrator submits the report
15 and the location of each policyholder insured under those
16 exceptions, organized by county and State” after “of the
17 Senate”.

18 **SEC. 103. TARGETED MEANS-TESTED ASSISTANCE.**

19 (a) MEANS-TESTED PROGRAM.—

20 (1) IN GENERAL.—Chapter I of the National
21 Flood Insurance Act of 1968 (42 U.S.C. 4011 et
22 seq.) is amended by inserting after section 1308A
23 (42 U.S.C. 4015a) the following:

24 **“SEC. 1308B. FLOOD INSURANCE ASSISTANCE.**

25 “(a) DEFINITIONS.—In this section:

1 “(1) COVERED PROPERTY.—The term ‘covered
2 property’ means—

3 “(A) a primary residential dwelling de-
4 signed for the occupancy of from 1 to 4 fami-
5 lies; or

6 “(B) personal property relating to a dwell-
7 ing described in subparagraph (A).

8 “(2) ELIGIBLE POLICYHOLDER.—The term ‘eli-
9 gible policyholder’ means a policyholder with a
10 household income that is not more than 120 percent
11 of the area median income for the area in which the
12 property to which the policy applies is located.

13 “(3) HOUSING EXPENSES.—The term ‘housing
14 expenses’ means, with respect to a household, the
15 total amount that the household spends in a year
16 on—

17 “(A) mortgage payments or rent;

18 “(B) property taxes;

19 “(C) homeowners insurance; and

20 “(D) premiums for flood insurance under
21 the national flood insurance program.

22 “(4) INSURANCE COSTS.—The term ‘insurance
23 costs’ means, with respect to a covered property for
24 a year—

1 “(A) risk premiums and fees estimated
2 under section 1307 and charged under section
3 1308;

4 “(B) surcharges assessed under sections
5 1304 and 1308A; and

6 “(C) any amount established under section
7 1310A(c).

8 “(b) **AUTHORITY.**—Subject to the availability of ap-
9 propriations, the Administrator is authorized to carry out
10 a means-tested program under which the Administrator
11 provides assistance to eligible policyholders in the form of
12 graduated discounts for insurance costs with respect to
13 covered properties.

14 “(c) **ELIGIBILITY.**—To determine eligibility for
15 means-tested assistance under this section, the Adminis-
16 trator may accept any of the following with respect to an
17 eligible policyholder:

18 “(1) Income verification from the National Di-
19 rectory of New Hires established under section
20 453(i) of the Social Security Act (42 U.S.C. 653(i)).

21 “(2) A self-certification of eligibility by the eli-
22 gible policyholder that is provided under penalty of
23 perjury pursuant to section 1746 of title 28, United
24 States Code.

1 “(3) Any other method identified by the Admin-
2 istrator in interim guidance, or a final rule, issued
3 under subsection (e).

4 “(d) DISCOUNT.—The Administrator may establish
5 graduated discounts available to eligible policyholders
6 under this section, which shall be based on the following
7 factors:

8 “(1) The percentage by which the household in-
9 come of an eligible policyholder is equal to, or less
10 than, 120 percent of the area median income for the
11 area in which the property to which the policy ap-
12 plies is located.

13 “(2) The housing expenses of an eligible policy-
14 holder.

15 “(3) The number of eligible policyholders par-
16 ticipating in the program established under this sec-
17 tion.

18 “(4) The availability of funding.

19 “(5) Any other factor that the Administrator
20 finds reasonable and necessary to carry out the pur-
21 poses of this section.

22 “(e) IMPLEMENTATION.—

23 “(1) IN GENERAL.—The Administrator shall
24 issue final rules to implement this section.

25 “(2) INTERIM GUIDANCE.—

1 “(A) IN GENERAL.—Not later than 1 year
2 after the date of enactment of this section, the
3 Administrator shall issue interim guidance to
4 implement this section, which shall—

5 “(i) include—

6 “(I) a description of how the Ad-
7 ministrator will determine—

8 “(aa) eligibility for house-
9 holds to participate in the pro-
10 gram established under this sec-
11 tion; and

12 “(bb) assistance levels for el-
13 igible households to which assist-
14 ance is provided under this sec-
15 tion;

16 “(II) the methodology that the
17 Administrator will use to determine
18 the amount of assistance provided to
19 eligible households under this section;
20 and

21 “(III) any requirements to which
22 eligible policyholders to which assist-
23 ance is provided under this section
24 will be subject; and

25 “(ii) expire on the later of—

1 “(I) the date that is 84 months
2 after the date of enactment of this
3 section; or

4 “(II) the date on which the final
5 rules issued under paragraph (1) take
6 effect.

7 “(B) RULE OF CONSTRUCTION.—Nothing
8 in subparagraph (A) may be construed to pre-
9 clude the Administrator from amending the in-
10 terim guidance issued under that subparagraph.

11 “(f) COLLECTION OF DEMOGRAPHIC INFORMA-
12 TION.—The Administrator, in order to evaluate and mon-
13 itor the effectiveness of this section, and to comply with
14 the reporting requirements under subsection (g), may re-
15 quest demographic information, and other information,
16 with respect to an eligible policyholder to which assistance
17 is provided under this section, which may include—

18 “(1) the income of the eligible policyholder, as
19 compared with the area median income for the area
20 in which the property to which the policy applies is
21 located; and

22 “(2) demographic characteristics of the eligible
23 policyholder, including the race and ethnicity of the
24 eligible policyholder.

25 “(g) REPORTS TO CONGRESS.—

1 “(1) IN GENERAL.—Not later than 2 years
2 after the date of enactment of this section, and bien-
3 nially thereafter, the Administrator shall submit to
4 Congress a report regarding the implementation and
5 effectiveness of this section.

6 “(2) CONTENTS.—Each report submitted under
7 paragraph (1) shall include information regarding,
8 for the period covered by the report—

9 “(A) the distribution of household area
10 median income for eligible policyholders to
11 which assistance is provided under this section;

12 “(B) the number of eligible policyholders
13 to which assistance is provided under this sec-
14 tion, which shall be disaggregated by income
15 and demographic characteristics;

16 “(C) the cost of providing assistance under
17 this section; and

18 “(D) the average amount of assistance
19 provided to an eligible policyholder under this
20 section, which shall be disaggregated as de-
21 scribed in subparagraph (B).

22 “(h) RISK COMMUNICATION.—For the purposes of
23 the communication required under section 1308(l), the
24 Administrator shall provide to an eligible policyholder to
25 which assistance is provided under this section a full flood

1 risk determination with respect to the property of the eligi-
2 ble policyholder, which shall reflect the insurance costs
3 with respect to the property before that assistance is pro-
4 vided.

5 “(i) FUNDING.—

6 “(1) AUTHORIZATION OF APPROPRIATIONS.—

7 There is authorized to be appropriated to the Ad-
8 ministrator to carry out this section—

9 “(A) \$250,000,000 for fiscal year 2022;

10 “(B) \$340,000,000 for fiscal year 2023;

11 “(C) \$400,000,000 for fiscal year 2024;

12 “(D) \$500,000,000 for fiscal year 2025;

13 and

14 “(E) \$600,000,000 for fiscal year 2026.

15 “(2) NOTIFICATION.—If, in a fiscal year, the
16 Administrator determines that the amount made
17 available to carry out this section is insufficient to
18 provide assistance under this section, the Adminis-
19 trator shall submit to Congress a notification of the
20 remaining amounts necessary to provide that assist-
21 ance for that fiscal year.

22 “(3) DISTRIBUTION OF PREMIUM.—With re-
23 spect to the amount of the discounts provided under
24 this section in a fiscal year, and any administrative
25 expenses incurred in carrying out this section for

1 that fiscal year, the Administrator shall, from
2 amounts made available to carry out this section for
3 that fiscal year, deposit in the National Flood Insur-
4 ance Fund established under section 1310 an
5 amount equal to those discounts and administrative
6 expenses, except to the extent that section 1310A
7 applies to any portion of those discounts or adminis-
8 trative expenses, in which case the Administrator
9 shall deposit an amount equal to those amounts to
10 which section 1310A applies in the National Flood
11 Insurance Reserve Fund established under section
12 1310A.”.

13 (2) USE OF SAVINGS.—In addition to any
14 amounts made available to the Administrator to
15 carry out section 1308B of the National Flood In-
16 surance Act of 1968, as added by paragraph (1), the
17 Administrator shall use any amounts saved as a di-
18 rect result of the amendments made by section
19 302(a) of this Act to carry out such section 1308B.

20 (b) NATIONAL FLOOD INSURANCE ACT OF 1968.—
21 The National Flood Insurance Act of 1968 (42 U.S.C.
22 4001 et seq.) is amended—

23 (1) in section 1308(e) (42 U.S.C. 4015(e))—

24 (A) in paragraph (1)—

1 (i) in subparagraph (B), by striking
2 “or” at the end;

3 (ii) in subparagraph (C)(iii), by add-
4 ing “or” at the end; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(D) in the case of a property with respect
8 to which assistance is provided under section
9 1308B, if—

10 “(i) the applicable policyholder is no
11 longer eligible to receive assistance under
12 that section;

13 “(ii) the assistance so provided has
14 been decreased under that section; or

15 “(iii) the Administrator is not author-
16 ized, or lacks appropriated funds, to carry
17 out that section;”; and

18 (B) in paragraph (3), by striking “period;
19 and” and inserting the following: “period, ex-
20 cept in the case of a property with respect to
21 which assistance is provided under section
22 1308B if a condition described in clause (i),
23 (ii), or (iii) of paragraph (1)(D) is applicable;
24 and”; and

25 (2) in section 1366(d) (42 U.S.C. 4104c(d))—

1 (A) by redesignating paragraph (3) as
2 paragraph (4); and

3 (B) by inserting after paragraph (2) the
4 following:

5 “(3) FLOOD INSURANCE ASSISTANCE.—In the
6 case of mitigation activities to structures insured by
7 policyholders that are eligible for assistance under
8 section 1308B, in an amount up to 100 percent of
9 all eligible costs.”.

10 (c) INFORMATION COMPARISONS WITH THE NA-
11 TIONAL DIRECTORY OF NEW HIRES FOR FLOOD INSUR-
12 ANCE ASSISTANCE INCOME VERIFICATION.—Section
13 453(j) of the Social Security Act (42 U.S.C. 653(j)) is
14 amended by adding at the end the following new para-
15 graph:

16 “(12) INFORMATION COMPARISONS FOR FLOOD
17 INSURANCE ASSISTANCE.—

18 “(A) FURNISHING OF INFORMATION BY
19 FEMA.—The Administrator of the Federal
20 Emergency Management Agency (in this para-
21 graph, referred to as the ‘Administrator’) shall
22 furnish to the Secretary, on such periodic basis
23 as determined by the Administrator in consulta-
24 tion with the Secretary, information in the cus-
25 tody of the Administrator for comparison with

1 information in the National Directory of New
2 Hires, in order to obtain information in such
3 Directory with respect to individuals who are
4 applying for, or receiving benefits under, section
5 1308B of the National Flood Insurance Act of
6 1968.

7 “(B) REQUIREMENT TO SEEK MINIMUM
8 INFORMATION.—The Administrator shall seek
9 information pursuant to this paragraph only to
10 the extent necessary to verify the employment
11 and income of individuals described in subpara-
12 graph (A).

13 “(C) DUTIES OF THE SECRETARY.—

14 “(i) INFORMATION DISCLOSURE.—The
15 Secretary, in cooperation with the Admin-
16 istrator, shall compare information in the
17 National Directory of New Hires with in-
18 formation provided by the Administrator
19 with respect to individuals described in
20 subparagraph (A), and shall disclose infor-
21 mation in such Directory regarding such
22 individuals to the Administrator, in accord-
23 ance with this paragraph, for the purposes
24 specified in this paragraph.

1 come of individuals described in subpara-
2 graph (A).

3 “(ii) DISCLOSURES PERMITTED.—
4 Subject to clause (iii), the Administrator
5 may disclose information resulting from a
6 data match pursuant to this paragraph
7 only to contractors of the Federal Emer-
8 gency Management Agency, private insur-
9 ance companies participating in the Write
10 Your Own Program of the Federal Emer-
11 gency Management Agency, the Inspector
12 General of the Department of Homeland
13 Security, and the Attorney General, in con-
14 nection with the administration of a pro-
15 gram described in subparagraph (A). In-
16 formation obtained by the Administrator
17 pursuant to this paragraph shall not be
18 made available under section 552 of title 5,
19 United States Code.

20 “(iii) CONDITIONS ON DISCLOSURE.—
21 Disclosures under this paragraph shall
22 be—

23 “(I) made in accordance with
24 data security and control policies es-

1 tablished by the Administrator and
2 approved by the Secretary;

3 “(II) subject to audit in a man-
4 ner satisfactory to the Secretary; and

5 “(III) subject to the sanctions
6 under subsection (l)(2).

7 “(iv) RESTRICTIONS ON REDISCLO-
8 SURE.—A person or entity to which infor-
9 mation is disclosed under this subpara-
10 graph may use or disclose such informa-
11 tion only as needed for verifying the em-
12 ployment and income of individuals de-
13 scribed in subparagraph (A), subject to the
14 conditions in clause (iii) and such addi-
15 tional conditions as agreed to by the Sec-
16 retary and the Administrator.

17 “(F) REIMBURSEMENT OF HHS COSTS.—
18 The Administrator shall reimburse the Sec-
19 retary, in accordance with subsection (k)(3), for
20 the costs incurred by the Secretary in fur-
21 nishing the information requested under this
22 paragraph.

23 “(G) CONSENT.—The Administrator shall
24 not seek, use, or disclose information under this
25 paragraph relating to an individual without the

1 prior written consent of such individual (or of
2 a person legally authorized to consent on behalf
3 of such individual).”.

4 **SEC. 104. OPTIONAL MONTHLY INSTALLMENT PREMIUM**
5 **PAYMENT PLANS.**

6 Section 1308(g) of the National Flood Insurance Act
7 of 1968 (42 U.S.C. 4015(g)) is amended—

8 (1) by striking “With respect to” and inserting
9 the following:

10 “(1) ANNUAL OR MONTHLY OPTION.—Subject
11 to paragraph (2), with respect to”;

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

13 “(2) MONTHLY INSTALLMENT.—With respect
14 to a policyholder that opts under paragraph (1) to
15 pay premiums on a monthly basis, the Administrator
16 may charge the policyholder an annual fee of not
17 more than \$15.

18 “(3) EXEMPTION FROM RULE MAKING; PILOT
19 PROGRAM.—During the period beginning on the date
20 of enactment of this paragraph and ending on the
21 date on which the Administrator promulgates regu-
22 lations carrying out paragraph (1), the Adminis-
23 trator may, notwithstanding any other provision of
24 law—

1 “(A) adopt policies and procedures to carry
2 out that paragraph without—

3 “(i) undergoing notice and comment
4 rule making under section 553 of title 5,
5 United States Code; or

6 “(ii) conducting regulatory analyses
7 otherwise required by statute, regulation,
8 or Executive order; or

9 “(B) carry out that paragraph by estab-
10 lishing a pilot program that gradually imple-
11 ments the requirements of that paragraph.”.

12 **SEC. 105. STUDY ON BUSINESS INTERRUPTION COVERAGE.**

13 (a) IN GENERAL.—The Administrator shall conduct
14 a study on the feasibility and soundness of offering cov-
15 erage for interruption business losses caused by a flood
16 under the National Flood Insurance Program (referred to
17 in this section as “business interruption coverage”).

18 (b) CONTENTS.—In conducting the study under sub-
19 section (a), the Administrator shall, at a minimum—

20 (1) evaluate insurance industry best practices
21 for offering business interruption coverage, including
22 the types of coverage provided and the utilization
23 rate;

24 (2) estimate the potential risk premium rates
25 for business interruption coverage based on the flood

1 risk reflected in the flood insurance rate map or
2 other risk metrics in effect at the time of purchase;

3 (3) analyze the operational and administrative
4 expenses associated with providing business inter-
5 ruption coverage and adjusting claims;

6 (4) identify potential obstacles that may prevent
7 the Administrator from offering business interrup-
8 tion coverage;

9 (5) evaluate the benefits of providing business
10 interruption coverage;

11 (6) analyze any potential impacts on the finan-
12 cial position of the National Flood Insurance Pro-
13 gram; and

14 (7) develop a feasibility implementation plan
15 and projected timelines for offering business inter-
16 ruption coverage.

17 (c) AVAILABILITY OF EXPERTS.—In conducting the
18 study under subsection (a), the Administrator may accept
19 and utilize the personnel and services of any other Federal
20 agency, and appoint and fix the compensation of tem-
21 porary personnel without regard to the provisions of title
22 5, United States Code, governing appointments in the
23 competitive service, or employ experts and consultants in
24 accordance with the provisions of section 3109 of such
25 title, without regard to the provisions of chapter 51 and

1 subchapter III of chapter 53 of such title relating to classi-
2 fication and General Schedule pay rates.

3 (d) DEADLINE.—The Administrator shall complete
4 the study required under subsection (a) not later than
5 September 30 of the second full fiscal year after the date
6 of enactment of this Act.

7 **SEC. 106. COOPERATIVE COVERAGE FAIRNESS.**

8 (a) IN GENERAL.—Section 1306 of the National
9 Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended
10 by adding at the end the following:

11 “(e) COOPERATIVES.—

12 “(1) DEFINITION.—In this subsection, the term
13 ‘cooperative building’ has the meaning given the
14 term in section 1312(d).

15 “(2) EQUAL TREATMENT WITH CONDOMIN-
16 IUMS.—Notwithstanding any other provision of law,
17 an owner of a share of a cooperative building shall
18 be eligible to purchase flood insurance coverage
19 under the national flood insurance program on the
20 same terms as a condominium owner.”.

21 (b) PAYMENT OF CLAIMS.—Section 1312 of the Na-
22 tional Flood Insurance Act of 1968 (42 U.S.C. 4019) is
23 amended—

24 (1) in subsection (c)—

1 (A) in the subsection heading, by inserting
2 “AND COOPERATIVE” after “CONDOMINIUM”;

3 (B) by inserting “or owners of a share of
4 a cooperative building” after “condominium
5 owners”; and

6 (C) by inserting “or cooperative associa-
7 tion” after “condominium association” each
8 place that term appears; and

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

10 “(d) DEFINITIONS.—In this section, the terms ‘coop-
11 erative association’ and ‘cooperative building’ have the
12 meanings given the terms by the Administrator.”.

13 **SEC. 107. COVERAGE LIMITS.**

14 (a) IN GENERAL.—Section 1306 of the National
15 Flood Insurance Act of 1968 (42 U.S.C. 4013), as amend-
16 ed by section 106(a), is amended—

17 (1) in subsection (b)—

18 (A) in the matter preceding paragraph (1),
19 by striking “In addition to any other terms and
20 conditions under subsection (a), such regula-
21 tions” and inserting “The Administrator”;

22 (B) in paragraph (2)—

23 (i) by striking “shall be made” and
24 inserting “may be made”; and

1 (ii) by striking “\$250,000” and in-
2 serting “the baseline amount”;

3 (C) in paragraph (3)—

4 (i) by striking “shall be made” and
5 inserting “may be made”; and

6 (ii) by striking “\$100,000” and in-
7 serting “50 percent of the baseline
8 amount”; and

9 (D) in paragraph (4)—

10 (i) by striking “shall be made” each
11 place that term appears and inserting
12 “may be made”; and

13 (ii) by striking “\$500,000” each place
14 that term appears and inserting “200 per-
15 cent of the baseline amount”; and

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

17 “(f) DEFINITION.—Subject to paragraph (2), in this
18 section, the term ‘baseline amount’ means an amount de-
19 termined by the Administrator that is equal to the max-
20 imum original principal obligation of a conventional mort-
21 gage secured by a single-family residence that may be pur-
22 chased by the Federal National Mortgage Association, as
23 established under the seventh sentence of section
24 302(b)(2) of the Federal National Mortgage Association

1 Charter Act (12 U.S.C. 1717(b)(2)), which the Adminis-
2 trator may not—

3 “(1) increase more than once every 5 years;

4 “(2) increase with respect to any particular
5 property pursuant to the 11th or 12th sentence of
6 such section 302(b)(2); or

7 “(3) decrease.”.

8 (b) **AUTHORITY OF ADMINISTRATOR TO SELL POLI-**
9 **CIES.**—The Administrator may sell a policy for flood in-
10 surance under the National Flood Insurance Program that
11 meets the requirements of paragraphs (2), (3), and (4)
12 of section 1306(b) of the National Flood Insurance Act
13 of 1968 (42 U.S.C. 4013(b)), as amended by subsection
14 (a), without regard to—

15 (1) section 61.6 of title 44, Code of Federal
16 Regulations, as in effect on the day before the date
17 of enactment of this Act; or

18 (2) any other provision of law.

19 **SEC. 108. STUDY ON PARTICIPATION RATES.**

20 (a) **DEFINITIONS.**—In this section—

21 (1) the term “500-year floodplain” has the
22 meaning given the term in section 100202(a) of the
23 Biggert-Waters Flood Insurance Reform Act of
24 2012 (40 U.S.C. 4004(a));

1 (2) the terms “Federal agency lender”, “im-
2 proved real estate”, and “regulated lending institu-
3 tion” have the meanings given those terms in section
4 3(a) of the Flood Disaster Protection Act of 1973
5 (42 U.S.C. 4003(a)); and

6 (3) the term “property with a Federally backed
7 mortgage” means improved real estate or a mobile
8 home securing a loan that was—

9 (A) made by a regulated lending institu-
10 tion or Federal agency lender; or

11 (B) purchased by the Federal National
12 Mortgage Association or the Federal Home
13 Loan Mortgage Corporation.

14 (b) STUDY.—The Comptroller General of the United
15 States shall conduct a study that proposes to address,
16 through programmatic and regulatory changes, how to in-
17 crease the rate at which properties in the United States
18 are covered by flood insurance.

19 (c) CONSIDERATIONS.—In conducting the study re-
20 quired under subsection (b), the Comptroller General of
21 the United States shall—

22 (1) consider—

23 (A) expanding participation in the Na-
24 tional Flood Insurance Program beyond areas

1 having special flood hazards to areas of mod-
2 erate or minimum risk with respect to flooding;

3 (B) automatically enrolling consumers in
4 the National Flood Insurance Program and
5 providing those consumers with the opportunity
6 to decline such enrollment; and

7 (C) bundling flood insurance coverage that
8 diversifies risk across all or multiple forms of
9 peril; and

10 (2) determine—

11 (A) the percentage of properties with Fed-
12 erally backed mortgages located in an area hav-
13 ing special flood hazards that are covered by
14 flood insurance that satisfies the requirement
15 under section 102(b) of the Flood Disaster Pro-
16 tection Act of 1973 (42 U.S.C. 4012a(b)); and

17 (B) the percentage of properties with Fed-
18 erally backed mortgages located in the 500-year
19 floodplain that are covered by flood insurance
20 that would satisfy the requirement described in
21 subparagraph (A) if that requirement applied to
22 such properties.

23 (d) REPORT.—Not later than 18 months after the
24 date of enactment of this Act, the Comptroller General
25 of the United States shall submit to the Committee on

1 Banking, Housing, and Urban Affairs of the Senate and
2 the Committee on Financial Services of the House of Rep-
3 resentatives a report regarding the results of the study
4 conducted under subsection (b).

5 **SEC. 109. NATIONAL FLOOD INSURANCE ACT DEFINITIONS**
6 **REGARDING THE WRITE YOUR OWN PRO-**
7 **GRAM.**

8 Section 1370(a) of the National Flood Insurance Act
9 of 1968 (42 U.S.C. 4121(a)) is amended—

10 (1) in paragraph (14), by striking “and” at the
11 end;

12 (2) in paragraph (15), by striking the period at
13 the end; and

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

15 “(16) the term ‘Write Your Own Program’
16 means the program under which the Federal Emer-
17 gency Management Agency enters into a standard
18 arrangement with private property insurance compa-
19 nies to—

20 “(A) sell contracts for Federal flood insur-
21 ance under their own business lines of insur-
22 ance; and

23 “(B) adjust and pay claims arising under
24 the contracts described in subparagraph (A);
25 and

1 “(17) the term ‘Write Your Own Company’
2 means a private property insurance company that
3 participates in the Write Your Own Program.”.

4 **TITLE II—MITIGATION AND**
5 **MAPPING**

6 **SEC. 201. MITIGATION FOR HIGH-RISK PROPERTIES.**

7 (a) IN GENERAL.—Section 203 of the Robert T.
8 Stafford Disaster Relief and Emergency Assistance Act
9 (42 U.S.C. 5133) is amended by adding at the end the
10 following:

11 “(n) FLOOD MITIGATION ACTIVITIES.—The Presi-
12 dent shall set aside from the Disaster Relief Fund an
13 amount equal to 10 percent of the average amount appro-
14 priated to the Fund during the preceding 10 fiscal years
15 to provide assistance for mitigation activities under section
16 1366 of the National Flood Insurance Act of 1968 (42
17 U.S.C. 4104c) for—

18 “(1) severe repetitive loss structures; and

19 “(2) properties insured under the national flood
20 insurance program with the largest increase in the
21 actuarial risk for the property compared to the actu-
22 arial risk for the previous fiscal year as a result of
23 Risk Rating 2.0, as in effect on October 1, 2021.”.

24 (b) APPLICABILITY.—The amendment made to sec-
25 tion 203 of the Robert T. Stafford Disaster Relief and

1 Emergency Assistance Act (42 U.S.C. 5133) by subsection
2 (a) shall apply to funds appropriated on or after the date
3 of enactment of this Act.

4 (c) TECHNICAL AND CONFORMING AMENDMENT.—
5 Effective on October 5, 2023, section 203 of the Robert
6 T. Stafford Disaster Relief and Emergency Assistance Act
7 (42 U.S.C. 5133) is amended by redesignating subsection
8 (n), as added by subsection (a) of this section, as sub-
9 section (m).

10 **SEC. 202. INCREASED COST OF COMPLIANCE COVERAGE.**

11 Section 1304(b) of the National Flood Insurance Act
12 of 1968 (42 U.S.C. 4011(b)) is amended—

13 (1) in paragraph (4), by redesignating subpara-
14 graphs (A) through (D) as clauses (i) through (iv),
15 respectively, and adjusting the margins accordingly;

16 (2) by redesignating paragraphs (1) through
17 (3) as subparagraphs (A) through (C), respectively,
18 and adjusting the margins accordingly;

19 (3) in subparagraph (C), as so redesignated, by
20 striking the period at the end and inserting a semi-
21 colon;

22 (4) by redesignating paragraph (4) as subpara-
23 graph (F), and adjusting the margins accordingly;

24 (5) by inserting after subparagraph (C), as so
25 redesignated, the following:

1 “(D) properties identified by the Adminis-
2 trator as priorities for mitigation activities be-
3 fore the occurrence of damage to or loss of
4 property which is covered by flood insurance;

5 “(E) properties outside an area having
6 special flood hazards if the communities in
7 which the properties are located have, under
8 section 1361, established land use and control
9 measures for the areas in which the properties
10 are located; and”;

11 (6) by inserting before “The national flood in-
12 surance program” the following: “(1) IN GEN-
13 ERAL.—”;

14 (7) in the flush text following subparagraph
15 (F)(iv), as so redesignated, by striking “The Admin-
16 istrator” and inserting the following:

17 “(2) PREMIUM.—The Administrator”; and

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

19 “(3) AMOUNT OF COVERAGE.—Each policy for flood
20 insurance coverage made available under this title shall
21 provide coverage under this subsection having an aggre-
22 gate liability for any single property of \$60,000.

23 “(4) ELIGIBLE MITIGATION ACTIVITIES.—

1 “(A) IN GENERAL.—Eligible mitigation meth-
2 ods the cost of which is covered by coverage provided
3 under this subsection shall include—

4 “(i) alternative methods of mitigation iden-
5 tified in the guidelines issued pursuant to sec-
6 tion 1361(d);

7 “(ii) pre-disaster mitigation projects for el-
8 igible structures; and

9 “(iii) costs associated with the purchase,
10 clearing, and stabilization of property that is
11 part of an acquisition or relocation project that
12 complies with subparagraph (B).

13 “(B) ACQUISITION AND RELOCATION PROJECT
14 ELIGIBILITY AND REQUIREMENTS.—

15 “(i) IN GENERAL.—An acquisition or relo-
16 cation project shall be eligible to receive assist-
17 ance pursuant to subparagraph (A)(iii) only
18 if—

19 “(I) any property acquired, accepted,
20 or from which a structure will be removed
21 shall be dedicated and maintained in per-
22 petuity for a use that is compatible with
23 open space, recreational, or wetland and
24 natural floodplain management practices;
25 and

1 structure shall, at all times, maintain in-
2 surance against flood damage, in accord-
3 ance with Federal law, for the life of such
4 structure.

5 “(II) TRANSFER OF PROPERTY.—

6 “(aa) DUTY TO NOTIFY.—If any
7 part of a property on which an as-
8 sisted structure is located is trans-
9 ferred, the transferor shall, not later
10 than the date on which such transfer
11 occurs, notify the transferee in writ-
12 ing, including in all documents evi-
13 dencing the transfer of ownership of
14 the property, that such transferee is
15 required to—

16 “(AA) obtain flood insur-
17 ance in accordance with applica-
18 ble Federal law with respect to
19 such assisted structure, if such
20 structure is not so insured on the
21 date on which the structure is
22 transferred; and

23 “(BB) maintain flood insur-
24 ance in accordance with applica-

1 ble Federal law with respect to
2 such structure.

3 “(bb) FAILURE TO NOTIFY.—If a
4 transferor fails to make a notification
5 in accordance with item (aa) and such
6 assisted structure is damaged by a
7 flood disaster, the transferor shall pay
8 the Federal Government an amount
9 equal to the amount of any disaster
10 relief provided by the Federal Govern-
11 ment with respect to such assisted
12 structure.

13 “(III) ASSISTED STRUCTURE DE-
14 FINED.—For the purposes of this clause,
15 the term ‘assisted structure’ means a
16 structure on property that is part of an ac-
17 quisition or relocation project assisted pur-
18 suant to subparagraph (A) that was, as
19 part of such acquisition or relocation
20 project—

21 “(aa) altered;

22 “(bb) improved;

23 “(cc) replaced;

24 “(dd) repaired; or

25 “(ee) restored.

1 “(C) ELIGIBLE STRUCTURE DEFINED.—For
2 purposes of this paragraph, the term ‘eligible struc-
3 ture’ means any structure that—

4 “(i) was constructed in compliance with
5 the Flood Insurance Rate Map and local build-
6 ing and zoning codes in effect on the date of
7 construction of the structure; and

8 “(ii) has not previously been altered, im-
9 proved, replaced, or repaired using assistance
10 provided under this subsection.

11 “(5) TREATMENT OF COVERAGE LIMITS.—Any
12 amount of coverage provided for a property pursuant to
13 this subsection shall not be considered or counted for pur-
14 poses of any limitation on coverage applicable to such
15 property under section 1306(b) and any claim on such cov-
16 erage shall not be considered a claim for purposes of sec-
17 tion 1307(h) or subsection (a)(3) or (h)(3) of section
18 1366.

19 “(6) IMPLEMENTATION.—Notwithstanding any other
20 provision of law, the Administrator may implement this
21 subsection by adopting 1 or more standard endorsements
22 to the Standard Flood Insurance Policy by publication of
23 such standards in the Federal Register, or by comparable
24 means.”.

1 **SEC. 203. FLOOD MITIGATION ASSISTANCE GRANTS.**

2 (a) FLOOD MITIGATION ASSISTANCE GRANT PRO-
3 GRAM PRIORITY.—Section 1366 of the National Flood In-
4 surance Act (42 U.S.C. 4104c) is amended—

5 (1) in subsection (a)—

6 (A) by redesignating paragraphs (1), (2),
7 and (3) as subparagraphs (A), (B), and (C), re-
8 spectively, and adjusting the margins accord-
9 ingly;

10 (B) in the second sentence of the matter
11 preceding subparagraph (A), as so redesign-
12 ated, by striking “assistance shall be” and in-
13 serting the following: “assistance shall—
14 “(1) be”;

15 (C) in paragraph (1)(C), as so redesign-
16 ated, by striking the period at the end and in-
17 serting “; and”; and

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

19 “(2) in addition to the requirement under para-
20 graph (1)(C), give priority to properties—

21 “(A) that are repetitive loss structures;

22 “(B) with respect to which the Adminis-
23 trator makes a determination that the premium
24 rates with respect to a policy for flood insur-
25 ance coverage under this title—

26 “(i) are unaffordable; or

1 “(ii) will soon become unaffordable as
2 a result of a risk adjustment under Risk
3 Rating 2.0, as in effect on the date of that
4 determination; and

5 “(C) for which aggregate losses exceed the
6 replacement value of the properties.”; and

7 (2) in subsection (h), by adding at the end the
8 following:

9 “(4) UNAFFORDABLE.—The term
10 ‘unaffordable’ means, with respect to the premium
11 rates for a policy for flood insurance coverage under
12 this title, that, in a year, those rates are in such an
13 amount that the housing expenses (as defined in sec-
14 tion 1308B(a)) of the household that is the subject
15 of the policy are, for that year, more than 30 per-
16 cent of the adjusted gross income (as defined in sec-
17 tion 62 of the Internal Revenue Code of 1986).”.

18 (b) ADDITIONAL MITIGATION ASSISTANCE.—

19 (1) APPROPRIATIONS FROM GENERAL FUND OF
20 TREASURY.—For each of the first 5 full fiscal years
21 after the date of enactment of this Act, there is au-
22 thorized to be appropriated \$1,000,000,000 to the
23 National Flood Mitigation Fund to provide mitiga-
24 tion assistance under this subsection.

1 (2) **RULE OF CONSTRUCTION.**—The authoriza-
2 tion of appropriations under subparagraph (A) shall
3 not be construed to authorize the transfer or cred-
4 iting to the National Flood Mitigation Fund of any
5 amounts from the National Flood Insurance Fund.

6 **SEC. 204. URBAN MITIGATION OPPORTUNITIES.**

7 (a) **MITIGATION STRATEGIES.**—Section 1361(d)(1)
8 of the National Flood Insurance Act of 1968 (42 U.S.C.
9 4102(d)(1)) is amended—

10 (1) in subparagraph (A), by striking “and” at
11 the end;

12 (2) in subparagraph (B), by striking “and” at
13 the end; and

14 (3) by inserting after subparagraph (B) the fol-
15 lowing:

16 “(C) with respect to buildings in dense
17 urban environments, methods that can be de-
18 ployed on a block or neighborhood scale; and

19 “(D) elevation of mechanical systems;
20 and”.

21 (b) **MITIGATION CREDIT.**—Section 1308(k) of the
22 National Flood Insurance Act of 1968 (42 U.S.C.
23 4015(k)) is amended—

24 (1) by striking “shall take into account” and
25 inserting “shall—

1 “(1) take into account”;

2 (2) in paragraph (1), as so designated, by strik-

3 ing the period at the end and inserting “; and”; and

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

5 “(2) offer a reduction of the risk premium rate

6 charged to a policyholder in an amount that is not

7 less than 10 percent of that rate if the policyholder

8 implements any mitigation method described in

9 paragraph (1).”.

10 **SEC. 205. COMMUNITY RATING SYSTEM REGIONAL COORDI-**

11 **NATOR.**

12 Section 1315(b) of the National Flood Insurance Act

13 of 1968 (42 U.S.C. 4022(b)) is amended by adding at the

14 end the following:

15 “(5) REGIONAL COORDINATOR.—

16 “(A) IN GENERAL.—The Administrator

17 shall appoint a regional coordinator in each re-

18 gion served by a Regional Office (as defined in

19 section 501 of the Homeland Security Act of

20 2002 (6 U.S.C. 311)) to provide technical as-

21 sistance to small communities to enable those

22 communities to effectively participate in and

23 benefit from the community rating system pro-

24 gram.

1 “(B) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There are authorized to be appro-
3 priated such sums as may be necessary to carry
4 out this paragraph, which shall remain available
5 until expended.”.

6 **SEC. 206. MITIGATION LOAN PROGRAM.**

7 (a) DEFINITION.—In this section, the term “mitiga-
8 tion measure” means, with respect to a structure, a meas-
9 ure undertaken to reduce the risk of flood damage to the
10 structure.

11 (b) ESTABLISHMENT.—The Administrator may es-
12 tablish a pilot program through which the Administrator
13 may provide low-interest loans to policyholders under the
14 National Flood Insurance Program for the purposes de-
15 scribed in subsection (c).

16 (c) PURPOSES OF LOANS.—A loan provided to a pol-
17 icyholder under the pilot program established under sub-
18 section (b) shall be used to undertake mitigation measures
19 with respect to the insured property that cost less than
20 the cost of the estimated amount of premiums that would
21 be paid with respect to the property during the 50-year
22 period beginning in the year in which the loan is made
23 and if those mitigation measures were not undertaken.

1 (d) SALE OF PROPERTY.—If a property with respect
2 to which a loan has been made under this section is sold,
3 upon that sale, the outstanding loan balance shall—

4 (1) be repaid using the proceeds of the sale; or

5 (2) carry over to the purchaser of the property
6 if the purchaser so consents before the execution of
7 the sale.

8 **SEC. 207. REVOLVING LOAN FUNDS.**

9 (a) IN GENERAL.—Chapter I of the National Flood
10 Insurance Act of 1968 (42 U.S.C. 4011 et seq.), as
11 amended by section 103, is amended by adding at the end
12 the following:

13 **“SEC. 1327. STATE OR TRIBAL GOVERNMENT REVOLVING**
14 **LOAN FUNDS FOR FLOOD MITIGATION.**

15 “(a) DEFINITIONS.—In this section:

16 “(1) COMMUNITY RATING SYSTEM.—The term
17 ‘Community Rating System’ means the community
18 rating system program carried out under section
19 1315(b).

20 “(2) INTENDED USE PLAN.—The term ‘in-
21 tended use plan’ means a plan prepared under sub-
22 section (d)(1).

23 “(3) LOW-INCOME GEOGRAPHIC AREA.—The
24 term ‘low-income geographic area’ means an area
25 described in paragraph (1) or (2) of section 301(a)

1 of the Public Works and Economic Development Act
2 of 1965 (42 U.S.C. 3161(a)).

3 “(4) LOW-INCOME HOMEOWNER.—The term
4 ‘low-income homeowner’ means the owner of a pri-
5 mary residence, the household income of which in a
6 taxable year is not more than 80 percent of the me-
7 dian income for the area in which the residence is
8 located.

9 “(5) PARTICIPATING ENTITY.—The term ‘par-
10 ticipating entity’ means a State or Tribal govern-
11 ment that—

12 “(A) has entered into an agreement under
13 subsection (b)(1); and

14 “(B) agrees to comply with the require-
15 ments of this section.

16 “(6) PRE-FIRM BUILDING.—The term ‘pre-
17 FIRM building’ means a building for which con-
18 struction or substantial improvement occurred before
19 the later of—

20 “(A) December 31, 1974; or

21 “(B) the effective date of the rate map
22 published by the Administrator under section
23 1360 for the area in which the building is lo-
24 cated.

1 “(7) STATE OR TRIBAL GOVERNMENT LOAN
2 FUND.—The term ‘State or Tribal government loan
3 fund’ means a flood mitigation assistance revolving
4 loan fund established by a State or Tribal govern-
5 ment under this section.

6 “(8) TRIBAL GOVERNMENT.—The term ‘Tribal
7 government’ means the recognized government of an
8 Indian tribe, or the governing body of an Alaska Na-
9 tive regional or village corporation, that has been de-
10 termined eligible to receive services from the Bureau
11 of Indian Affairs.

12 “(b) GENERAL AUTHORITY.—

13 “(1) IN GENERAL.—The Administrator may
14 enter into an agreement with a State or Tribal gov-
15 ernment to provide a capitalization grant for the
16 State or Tribal government to establish a revolving
17 fund that will provide funding assistance to help
18 homeowners, businesses, nonprofit organizations,
19 and communities reduce flood risk in order to de-
20 crease—

21 “(A) the loss of life and property;

22 “(B) the cost of flood insurance; and

23 “(C) Federal disaster payments.

24 “(2) TIMING OF DEPOSIT AND AGREEMENTS
25 FOR DISTRIBUTION OF FUNDS.—

1 “(A) IN GENERAL.—Not later than the
2 last day of the fiscal year following the fiscal
3 year in which a capitalization grant is made to
4 a participating entity under paragraph (1), the
5 participating entity shall—

6 “(i) deposit the grant in the State or
7 Tribal government loan fund of the partici-
8 pating entity; and

9 “(ii) enter into 1 or more binding
10 agreements that provide for the partici-
11 pating entity to distribute the grant funds
12 for purposes authorized under subsection
13 (c) such that—

14 “(I) in the case of the initial
15 grant made to a participating entity
16 under this section, not less than 75
17 percent of the amount of the grant
18 shall be distributed before the end of
19 the 2-year period beginning on the
20 date on which the funds are deposited
21 in the State or Tribal government
22 loan fund of the participating entity;
23 and

24 “(II) in the case of any subse-
25 quent grant made to a participating

1 entity under this section, not less than
2 90 percent of the amount of the grant
3 shall be distributed before the end of
4 the 1-year period beginning on the
5 date on which the funds are deposited
6 in the State or Tribal government
7 loan fund of the participating entity.

8 “(B) NONCOMPLIANCE.—Except as pro-
9 vided in subparagraph (C), if a participating
10 entity does not comply with subparagraph (A)
11 with respect to a grant, the Administrator shall
12 reallocate the grant in accordance with para-
13 graph (3)(B).

14 “(C) EXCEPTION.—The Administrator
15 may not reallocate any funds under subpara-
16 graph (B) to a participating entity that violated
17 subparagraph (A) with respect to a grant made
18 during the same fiscal year in which the funds
19 to be reallocated were originally made available.

20 “(3) ALLOCATION.—

21 “(A) IN GENERAL.—The Administrator
22 shall allocate amounts made available to carry
23 out this section to participating entities—

24 “(i) for the participating entities to
25 deposit in the State or Tribal government

1 loan fund established by the participating
2 entity; and

3 “(ii) except as provided in paragraph
4 (6), in accordance with the requirements
5 described in subparagraph (B).

6 “(B) REQUIREMENTS.—The requirements
7 described in this subparagraph are as follows:

8 “(i) Fifty percent of the total amount
9 made available under subparagraph (A)
10 shall be allocated so that each partici-
11 pating entity receives the percentage
12 amount that is obtained by dividing the
13 number of properties that were insured
14 under the national flood insurance pro-
15 gram in that State or Tribal government
16 jurisdiction, as applicable, in the fiscal
17 year preceding the fiscal year in which the
18 amount is allocated by the total number of
19 properties that were insured under the na-
20 tional flood insurance program in the fiscal
21 year preceding the fiscal year in which the
22 amount is allocated.

23 “(ii) Fifty percent of the total amount
24 made available under subparagraph (A)
25 shall be allocated so that each partici-

1 participating entity receives a percentage of
2 funds that is equal to the product obtained
3 under clause (iii)(IV) with respect to that
4 participating entity after following the pro-
5 cedures described in clause (iii).

6 “(iii) The procedures described in this
7 clause are as follows:

8 “(I) Divide the total amount col-
9 lected in premiums for properties in-
10 sured under the national flood insur-
11 ance program in each participating
12 entity during the previous fiscal year
13 by the number of properties insured
14 under the national flood insurance
15 program in that State or Tribal gov-
16 ernment jurisdiction, as applicable, for
17 that fiscal year.

18 “(II) Add together each quotient
19 obtained under subclause (I).

20 “(III) For each participating en-
21 tity, divide the quotient obtained
22 under subclause (I) with respect to
23 that State or Tribal government juris-
24 diction, as applicable, by the sum ob-
25 tained under subclause (II).

1 “(IV) For each participating en-
2 tity, multiply the amount that is 50
3 percent of the total amount made
4 available under subparagraph (A) by
5 the quotient obtained under subclause
6 (III).

7 “(iv) Except as provided in paragraph
8 (5), in a fiscal year—

9 “(I) a participating entity may
10 not receive more than 15 percent of
11 the total amount that is made avail-
12 able under subparagraph (A) in that
13 fiscal year; and

14 “(II) if a participating entity,
15 based on the requirements under
16 clauses (i) through (iii), would, but
17 for the limitation under subclause (I)
18 of this clause, receive an amount that
19 is greater than the amount that the
20 State or Tribal government jurisdic-
21 tion, as applicable, is authorized to re-
22 ceive under that subclause, the dif-
23 ference between the authorized
24 amount and the amount otherwise due
25 to the State or Tribal government ju-

1 jurisdiction, as applicable, under clauses
2 (i) through (iii) shall be allocated to
3 other participating entities—

4 “(aa) that, in that fiscal
5 year, have not received an
6 amount under subparagraph (A)
7 that is more than the authorized
8 amount under subclause (I) of
9 this clause; and

10 “(bb) by using the require-
11 ments under clauses (i) through
12 (iii), except that a participating
13 entity may receive an allocation
14 under this subclause only if the
15 allocation does not result in the
16 State or Tribal government juris-
17 diction, as applicable, receiving a
18 total amount for the fiscal year
19 under subparagraph (A) that is
20 greater than the authorized
21 amount under subclause (I).

22 “(4) NO REVOLVING FUND REQUIRED.—

23 “(A) IN GENERAL.—Notwithstanding any
24 other provision of this section, and subject to
25 subparagraph (B), a participating entity that

1 receives less than \$4,000,000 under paragraph
2 (3)(B) in a fiscal year may distribute the funds
3 directly in the form of grants or technical as-
4 sistance for a purpose described in subsection
5 (c)(2), without regard to whether the partici-
6 pating entity has established a State or Tribal
7 government loan fund.

8 “(B) MATCHING.—A participating entity
9 that exercises the authority under subparagraph
10 (A) in a fiscal year shall provide matching
11 funds from non-Federal sources in an amount
12 that is equal to 25 percent of the amount that
13 the participating entity receives under para-
14 graph (3)(B) in that fiscal year for purposes
15 described in subparagraph (A).

16 “(5) ALLOCATION OF REMAINING FUNDS.—
17 After allocating amounts made available to carry out
18 this section for a fiscal year in accordance with
19 paragraph (3), the Administrator shall allocate any
20 remaining amounts made available for that fiscal
21 year to participating entities, using the procedures
22 described in clauses (i) through (iii) of paragraph
23 (3)(B).

24 “(6) RESERVATION OF FUNDS.—The Adminis-
25 trator shall reserve not more than 1.5 percent of the

1 amount made available to carry out this section in
2 a fiscal year—

3 “(A) for administrative costs incurred by
4 the Federal Emergency Management Agency in
5 carrying out this section;

6 “(B) to provide technical assistance to re-
7 cipients of grants under this section; and

8 “(C) to enter into grant agreements with
9 insular areas, with the grant funds to be dis-
10 tributed—

11 “(i) according to criteria established
12 by the Administrator; and

13 “(ii) for a purpose described in sub-
14 section (c)(2).

15 “(c) USE OF FUNDS.—

16 “(1) IN GENERAL.—Amounts deposited in a
17 State or Tribal government loan fund, including re-
18 payments of loans made from the fund and interest
19 earned on the amounts in the fund, shall be used—

20 “(A) consistent with paragraph (2) and
21 subsection (g), to provide financial assistance
22 for—

23 “(i) homeowners, businesses, and non-
24 profit organizations that are eligible to

1 participate in the national flood insurance
2 program; and

3 “(ii) any local government that par-
4 ticipates in the national flood insurance
5 program;

6 “(B) as a source of revenue and security
7 for leveraged loans, the proceeds of which shall
8 be deposited in the State or Tribal government
9 loan fund; or

10 “(C) for the sale of bonds as security for
11 payment of the principal and interest on rev-
12 enue or general obligation bonds issued by the
13 participating entity to provide matching funds
14 under subsection (f), if the proceeds from the
15 sale of the bonds are deposited in the State or
16 Tribal government loan fund.

17 “(2) PURPOSES.—A recipient of financial as-
18 sistance provided through amounts from a State or
19 Tribal government loan fund—

20 “(A) shall use the amounts to reduce—

21 “(i) flood risk; or

22 “(ii) potential claims for losses cov-
23 ered under the national flood insurance
24 program;

1 “(B) shall use the amounts in a cost-effec-
2 tive manner under requirements established by
3 the participating entity, which may require an
4 applicant for financial assistance to submit any
5 information that the participating entity con-
6 siders relevant or necessary before the date on
7 which the applicant receives the assistance;

8 “(C) shall use the amounts for projects
9 that—

10 “(i) meet design and construction
11 standards established by the Adminis-
12 trator;

13 “(ii) are located in communities
14 that—

15 “(I) participate in the national
16 flood insurance program; and

17 “(II) have developed a commu-
18 nity flood risk mitigation plan that
19 has been approved by the Adminis-
20 trator under section 1366;

21 “(iii) address—

22 “(I) a repetitive loss structure or
23 a severe repetitive loss property; or

24 “(II) flood risk in the 500-year
25 floodplain, areas of residual flood risk,

1 or other areas of potential flood risk,
2 as identified by the Administrator;
3 and

4 “(iv) address current risk and antici-
5 pate future risk, such as sea-level rise, and
6 flood risk resulting from wildfire;

7 “(D) may use the amounts—

8 “(i) for projects relating to—

9 “(I) structural elevation;

10 “(II) floodproofing;

11 “(III) the relocation or removal
12 of buildings from the 100-year flood-
13 plain or other areas of flood risk, in-
14 cluding the acquisition of properties
15 for such a purpose;

16 “(IV) environmental restoration
17 activities that directly reduce flood
18 risk, including green infrastructure;

19 “(V) any eligible activity de-
20 scribed in subparagraphs (A) through
21 (G) of section 1366(c)(3); or

22 “(VI) other activities determined
23 appropriate by the Administrator;

24 “(ii) with respect to a project de-
25 scribed in clause (i), only for expenditures

1 directly related to a project described in
2 that clause, including expenditures for
3 planning, design, and associated pre-con-
4 struction activities;

5 “(iii) to acquire, for the purposes of
6 permanent protection, land, buildings, or a
7 conservation easement from a willing seller
8 or grantor, provided that—

9 “(I) the use of the land will be
10 committed in perpetuity, with assur-
11 ances from the recipient, that the land
12 will only be used for open spaces, rec-
13 reational use, or wetland management
14 practices;

15 “(II) no new structure will be
16 erected on the property acquired other
17 than—

18 “(aa) a public facility that is
19 open on all sides and functionally
20 related to a designated open
21 space;

22 “(bb) a restroom; or

23 “(cc) a structure that the
24 Administrator approves in writ-
25 ing before the commencement of

1 a construction of the structure;

2 and

3 “(iv) the recipient may make no sub-
4 sequent application for disaster assistance
5 for any purpose and no such assistance
6 will be provided to the applicant from any
7 Federal source;

8 “(E) may not use the amounts—

9 “(i) to construct buildings or expand
10 existing buildings, unless the activity is for
11 the purpose of flood mitigation;

12 “(ii) to improve any structure, unless
13 the recipient has obtained flood insurance
14 coverage, which shall be maintained for the
15 useful life of the structure, in an amount
16 that is not less than the lesser of—

17 “(I) the eligible project costs with
18 respect to the structure; and

19 “(II) the maximum insurable
20 limit for the structure under the na-
21 tional flood insurance program cov-
22 erage for the structure;

23 “(iii) to improve a residential property
24 with an appraised value that is not less
25 than 125 percent of the limitation on the

1 maximum original principal obligation of a
2 conventional mortgage that may be pur-
3 chased by the Federal National Mortgage
4 Association or the Federal Home Loan
5 Mortgage Corporation in the area in which
6 the property is located, as established
7 under section 302(b)(2) of the Federal Na-
8 tional Mortgage Association Charter Act
9 (12 U.S.C. 1717(b)(2)) and section
10 305(a)(2) of the Federal Home Loan
11 Mortgage Corporation Act (12 U.S.C.
12 1454(a)(2));

13 “(iv) for the direct benefit of a home-
14 owner if the annual household adjusted
15 gross income of the homeowner during the
16 previous fiscal year was not less than
17 \$200,000, as annually adjusted by the Ad-
18 ministrator to reflect changes in the Con-
19 sumer Price Index for All Urban Con-
20 sumers, as published by the Bureau of
21 Labor Statistics of the Department of
22 Labor and rounded to the nearest \$25; or

23 “(v) to acquire real property or an in-
24 terest in real property unless the property
25 is purchased from a willing seller; and

1 “(F) to the maximum extent practicable,
2 shall, in using those amounts, give priority to
3 projects that assist low-income homeowners and
4 low-income geographical areas.

5 “(d) INTENDED USE PLANS.—

6 “(1) IN GENERAL.—After providing the oppor-
7 tunity for public review and comment, each partici-
8 pating entity shall annually prepare a plan that
9 identifies, for the year following the date of issuance
10 of the intended use plan, the intended uses of the
11 amounts available in the State or Tribal government
12 loan fund of the participating entity.

13 “(2) CONSULTATION DURING PREPARATION.—
14 Each participating entity, in preparing an intended
15 use plan, shall ensure that the State or Tribal gov-
16 ernment agency with primary responsibility for
17 floodplain management—

18 “(A) provides oversight with respect to the
19 preparation of the intended use plan; and

20 “(B) consults with any other appropriate
21 State or Tribal government agency, including
22 agencies responsible for coastal and environ-
23 mental management.

24 “(3) CONTENTS.—A participating entity shall,
25 in each intended use plan—

1 “(A) include—

2 “(i) an explanation of the mitigation
3 and resiliency benefits the participating en-
4 tity intends to achieve, including by—

5 “(I) reducing future damage and
6 loss associated with flooding;

7 “(II) reducing the number of se-
8 vere repetitive loss properties and re-
9 petitive loss structures in the State or
10 Tribal government jurisdiction, as ap-
11 plicable;

12 “(III) decreasing the number of
13 flood insurance claims in the State or
14 Tribal government jurisdiction, as ap-
15 plicable; and

16 “(IV) increasing the rating under
17 the Community Rating System for
18 communities in the State or Tribal
19 government jurisdiction, as applicable;

20 “(ii) information with respect to the
21 availability of, and the application process
22 for receiving, financial assistance from the
23 State or Tribal government loan fund of
24 the participating entity;

1 “(iii) the criteria and methods estab-
2 lished for the distribution of amounts from
3 the State or Tribal government loan fund
4 of the participating entity;

5 “(iv) the amount of financial assist-
6 ance that the participating entity antici-
7 pates providing to—

8 “(I) local government projects;
9 and

10 “(II) projects for homeowners,
11 business, or nonprofit organizations;

12 “(v) the expected terms of the assist-
13 ance provided under clause (iv); and

14 “(vi) a description of the financial sta-
15 tus of the State or Tribal government loan
16 fund and the short-term and long-term
17 goals of the State or Tribal government
18 loan fund; and

19 “(B) provide, to the maximum extent prac-
20 ticable, that priority for the use of amounts
21 from the State or Tribal government loan fund
22 shall be given to projects that—

23 “(i) address severe repetitive loss
24 properties and repetitive loss structures;

1 “(ii) assist low-income homeowners
2 and low-income geographic areas; and

3 “(iii) address flood risk for pre-FIRM
4 buildings.

5 “(4) PUBLICATION.—Each participating entity
6 shall publish and periodically update a list of all
7 projects receiving funding from the State or Tribal
8 government loan fund of the participating entity,
9 which shall include identification of—

10 “(A) the community in which the project is
11 located;

12 “(B) the type and amount of assistance
13 provided for each project; and

14 “(C) the expected funding schedule and
15 date of completion of each project.

16 “(e) FUND MANAGEMENT.—Amounts in a State or
17 Tribal government loan fund shall—

18 “(1) remain available for providing financial as-
19 sistance under this section until distributed;

20 “(2) if the amounts are not required for imme-
21 diate distribution or expenditure, be invested in in-
22 terest-bearing obligations; and

23 “(3) except as provided in subsection (i), in-
24 clude only—

1 “(A) amounts received from capitalization
2 grants made under this section;

3 “(B) repayments of loans made from the
4 fund; and

5 “(C) interest earned on amounts in the
6 fund.

7 “(f) MATCHING FUNDS.—

8 “(1) FULL GRANT.—On or before the date on
9 which a participating entity receives a capitalization
10 grant, the participating shall deposit into the State
11 or Tribal government loan fund of the participating
12 entity, in addition to the amount of the capitaliza-
13 tion grant, an amount from non-Federal sources
14 that is not less than 20 percent of the total amount
15 of the capitalization grant.

16 “(2) REDUCED GRANT.—If, with respect to a
17 capitalization grant, a participating entity deposits
18 in the State or Tribal government loan fund of the
19 participating entity an amount from non-Federal
20 sources that is less than 20 percent of the total
21 amount of the capitalization grant that the partici-
22 pating entity would otherwise receive, the Adminis-
23 trator shall—

24 “(A) reduce the amount of the capitaliza-
25 tion grant received by the participating entity

1 to the amount that is 5 times the amount so
2 deposited; and

3 “(B) in accordance with subsection (b)(5),
4 allocate the difference between the amount that
5 the participating entity would have received if
6 the participating entity had complied with para-
7 graph (1) and the amount of the reduced grant
8 that the participating entity receives under sub-
9 paragraph (A).

10 “(g) TYPES OF ASSISTANCE.—Unless otherwise pro-
11 hibited by law of a participating entity, the participating
12 entity may use the amounts deposited into a State or Trib-
13 al government loan fund under this section only—

14 “(1) to make a loan, on the condition that—

15 “(A) the interest rate for the loan is not
16 more than the market interest rate;

17 “(B) the recipient of the loan will begin
18 making principal and interest payments on the
19 loan not later than 1 year after the date on
20 which the project for which the loan was made
21 is completed;

22 “(C) the loan will be fully amortized not
23 later than 20 years after the date on which the
24 project for which the loan was made is com-
25 pleted, except that, in the case of a loan made

1 for a project in a low-income geographic area or
2 to a low-income homeowner, the State may pro-
3 vide a longer amortization period for the loan if
4 that longer period—

5 “(i) ends on a date that is not later
6 than 30 years after the date on which the
7 project is completed; and

8 “(ii) is not longer than the expected
9 design life of the project;

10 “(D) the recipient of the loan dem-
11 onstrates, based on verified and documented in-
12 formation that, as of the date on which the loan
13 is made, the recipient has a reasonable ability
14 to repay the loan, according to the terms of the
15 loan, except that this subparagraph may not be
16 construed to authorize any reduction or limita-
17 tion in efforts to comply with the requirements
18 of subsection (c)(2)(F); and

19 “(E) payments of principal and interest
20 with respect to the loan will be deposited into
21 the State or Tribal government loan fund;

22 “(2) to buy or refinance the debt obligation of
23 a local government at an interest rate that is not
24 more than the market interest rate;

1 “(3) to guarantee, or purchase insurance for, a
2 local obligation, the proceeds of which finance a
3 project eligible for assistance under this section, if
4 the guarantee or purchase, as applicable, would—

5 “(A) improve credit market access; or

6 “(B) reduce the interest rate with respect
7 to the obligation;

8 “(4) as a source of revenue or as security for
9 the payment of principal and interest on revenue or
10 general obligation bonds issued by the participating
11 entity if the proceeds of the sale of the bonds will
12 be deposited into the State or Tribal government
13 loan fund; or

14 “(5) to earn interest on those amounts.

15 “(h) ASSISTANCE FOR LOW-INCOME HOMEOWNERS
16 AND LOW-INCOME GEOGRAPHIC AREAS.—

17 “(1) IN GENERAL.—Notwithstanding any other
18 provision of this section, if a participating entity
19 uses amounts from a State or Tribal government
20 loan fund to provide financial assistance under sub-
21 section (c) in a low-income geographic area or to a
22 low-income homeowner, the participating entity may
23 provide additional subsidization to the recipient of
24 the assistance, including forgiveness of the principal
25 of a loan.

1 “(2) LIMITATION.—For each fiscal year, the
2 total amount of additional subsidization provided by
3 a participating entity under paragraph (1) may not
4 exceed 30 percent of the amount of the capitaliza-
5 tion grant allocated to the participating entity for
6 that fiscal year.

7 “(i) ADMINISTRATION OF FUND.—

8 “(1) IN GENERAL.—A participating entity may
9 combine the financial administration of a State or
10 Tribal government loan fund with the financial ad-
11 ministration of any other revolving fund established
12 by the participating entity if—

13 “(A) combining the administration of the
14 funds would—

15 “(i) be convenient and avoid adminis-
16 trative costs; and

17 “(ii) not violate the law of the partici-
18 pating entity; and

19 “(B) the Administrator determines that—

20 “(i) amounts obtained from a grant
21 made under this section, amounts obtained
22 from the repayment of a loan made from
23 a State or Tribal government loan fund,
24 and interest earned on amounts in a State
25 or Tribal government loan fund will be—

1 “(I) accounted for separately
2 from amounts from other revolving
3 funds; and

4 “(II) used only for purposes au-
5 thorized under this section; and

6 “(ii) after consulting with the appro-
7 priate State or Tribal government agen-
8 cies, the authority to establish assistance
9 priorities and carry out oversight and re-
10 lated activities, other than financial admin-
11 istration, with respect to flood assistance
12 remains with the State or Tribal govern-
13 ment agency with primary responsibility
14 for floodplain management.

15 “(2) ADMINISTRATIVE AND TECHNICAL
16 COSTS.—

17 “(A) IN GENERAL.—For each fiscal year, a
18 participating entity may use the amount de-
19 scribed in subparagraph (B) to—

20 “(i) pay the reasonable costs of ad-
21 ministration of the programs under this
22 section, including the recovery of reason-
23 able costs incurred in establishing a State
24 or Tribal government loan fund;

1 the date on which the valuation is
2 made; and

3 “(III) an amount equal to 7 per-
4 cent of all grant awards made to a
5 participating entity for the State or
6 Tribal government loan fund of the
7 participating entity under this section
8 for the fiscal year.

9 “(3) AUDIT AND REPORT.—

10 “(A) AUDIT REQUIREMENT.—Not less fre-
11 quently than biennially, each participating enti-
12 ty shall conduct an audit of the State or Tribal
13 government loan fund of the participating enti-
14 ty.

15 “(B) REPORT.—Each participating entity
16 shall submit to the Administrator a biennial re-
17 port regarding the activities of the participating
18 entity under this section during the period cov-
19 ered by the report, including—

20 “(i) the result of any audit conducted
21 by the participating entity under subpara-
22 graph (A); and

23 “(ii) a review of the effectiveness of
24 the State or Tribal government loan fund

1 of the participating entity with respect
2 to—

3 “(I) the intended use plans of the
4 participating entity; and

5 “(II) meeting the objectives de-
6 scribed in subsection (b)(1).

7 “(4) OVERSIGHT.—In conducting oversight with
8 respect to State or Tribal government loan funds es-
9 tablished under this section, the Administrator—

10 “(A) shall—

11 “(i) periodically audit the funds in ac-
12 cordance with procedures established by
13 the Comptroller General of the United
14 States; and

15 “(ii) not less frequently than once
16 every 4 years, review each State or Tribal
17 government loan fund to determine the ef-
18 fectiveness of the fund in reducing flood
19 risk; and

20 “(B) may, at any time—

21 “(i) make recommendations to a par-
22 ticipating entity with respect to the admin-
23 istration of the State or Tribal government
24 loan fund of the participating entity; or

1 “(ii) require specific changes with re-
2 spect to a State or Tribal government loan
3 fund of the participating entity in order to
4 improve the effectiveness of the fund.

5 “(j) LIABILITY PROTECTIONS.—The Federal Emer-
6 gency Management Agency shall not be liable for any
7 claim based on the exercise or performance of, or the fail-
8 ure to exercise or perform, a discretionary function or duty
9 by the Agency, or an employee of the Agency, in carrying
10 out this section.

11 “(k) REGULATIONS.—The Administrator shall pro-
12 mulgate such guidance or regulations as may be necessary
13 to carry out this section, including guidance or regulations
14 that—

15 “(1) ensure that each participating entity to
16 which funds are allocated under this section uses the
17 funds as efficiently as possible;

18 “(2) reduce, to the maximum extent prac-
19 ticable, waste, fraud, and abuse with respect to the
20 implementation of this section; and

21 “(3) require any party that receives funds di-
22 rectly or indirectly under this section, including a
23 participating entity and a recipient of amounts from
24 a State or Tribal government loan fund, to use pro-
25 cedures with respect to the management of the

1 funds that conform to generally accepted accounting
2 standards.

3 “(l) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary to carry out this section for fiscal years 2022
6 through 2031.”.

7 (b) CONSIDERATION OF MITIGATION MEASURES
8 FUNDED BY WTATE LOAN FUNDS IN FLOOD INSURANCE
9 PREMIUM RATES.—

10 (1) ESTIMATED RATES.—Section
11 1307(a)(1)(A)(ii) of the National Flood Insurance
12 Act of 1968 (42 U.S.C. 4014(a)(1)(A)(ii)) is amend-
13 ed by striking “and similar measures” and inserting
14 “similar measures, and any activities funded
15 through amounts from a State or Tribal government
16 loan fund established under section 1327”.

17 (2) CHARGEABLE RATES.—Section 1308(b)(1)
18 of the National Flood Insurance Act of 1968 (42
19 U.S.C. 4015(b)(1)) is amended by striking “and
20 similar measures” and inserting “similar measures,
21 and any activities funded through amounts from a
22 State or Tribal government loan fund established
23 under section 1327”.

1 **SEC. 208. MAPPING MODERNIZATION.**

2 (a) AMENDMENTS TO THE BIGGERT-WATERS FLOOD
3 INSURANCE REFORM ACT OF 2012.—The Biggert-Waters
4 Flood Insurance Reform Act of 2012 (42 U.S.C. 4004 et
5 seq.) is amended—

6 (1) in section 100215 (42 U.S.C. 4101a)—

7 (A) in subsection (b)—

8 (i) in paragraph (1)—

9 (I) by redesignating subpara-
10 graphs (A) through (E) as subpara-
11 graphs (B) through (F), respectively;

12 (II) by inserting before subpara-
13 graph (B), as so redesignated, the fol-
14 lowing:

15 “(A) the Director of the United States Ge-
16 ological Survey;”; and

17 (III) in subparagraph (F), as so
18 redesignated—

19 (aa) in the matter preceding
20 clause (i), by striking “16” and
21 inserting “17”;

22 (bb) in clause (xiii), by strik-
23 ing “and” at the end;

24 (cc) in clause (xiv), by strik-
25 ing the period at the end and in-
26 serting “; and”; and

1 (dd) by adding at the end
2 the following:

3 “(xv) an expert in the field of cata-
4 strophic risk modeling.”;

5 (ii) in paragraph (2), in the second
6 sentence, by striking “paragraph (1)(E)”
7 and inserting “paragraph (1)(F)”; and

8 (iii) by adding at the end the fol-
9 lowing:

10 “(3) CONFLICTS OF INTEREST.—A member of
11 the Council—

12 “(A) may not, while serving on the Coun-
13 cil, be employed or retained by—

14 “(i) a Federal Emergency Manage-
15 ment Agency contractor or consultant; or

16 “(ii) a nongovernmental entity that
17 was awarded a Federal grant during the 5-
18 year period preceding the date on which
19 the member was appointed to the Council;
20 and

21 “(B) may not have been employed by a
22 Federal Emergency Management Agency con-
23 tractor or consultant during the 5-year period
24 preceding the date on which the member was
25 appointed to the Council.”; and

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

2 “(m) PRIVATE OR COMMUNITY FLOOD MAPS.—

3 “(1) STANDARDS AND PROCEDURES.—In addi-
4 tion to the other duties of the Council under this
5 section, not later than 1 year after the date of enact-
6 ment of this subsection, the Council shall develop
7 and establish a set of standards, guidelines, and pro-
8 cedures for—

9 “(A) State and local governments, feder-
10 ally or State-recognized metropolitan planning
11 organizations (commonly known as ‘MPOs’),
12 federally or State-recognized councils of local
13 governments, and federally or State-recognized
14 rural transportation planning organizations to
15 use in mapping flood risks and developing alter-
16 native maps to the flood insurance rate maps
17 developed by the Administrator; and

18 “(B) certification, by the Administrator
19 not later than 90 days after the date on which
20 a map developed under subparagraph (A) is
21 submitted to the Administrator, for use under
22 the National Flood Insurance Program in the
23 case of any area covered by a flood insurance
24 rate map developed or approved by the Admin-

1 istrator that has not been updated or reissued
2 during the preceding 3-year period.

3 “(2) TREATMENT.—On and after the date on
4 which the Administrator certifies a map under para-
5 graph (1)(B), and subject to the requirements of
6 section 1363 of the National Flood Insurance Act of
7 1968 (42 U.S.C. 4104), the map—

8 “(A) shall be considered the flood insur-
9 ance rate map in effect for all purposes of the
10 National Flood Insurance Program with respect
11 to the area covered by the map; and

12 “(B) may not be revised, updated, or re-
13 placed in accordance with the standards, guide-
14 lines, and procedures established under para-
15 graph (1) before the expiration of the 3-year
16 period beginning on that date of certification.

17 “(3) EXEMPTION FROM RULEMAKING.—Until
18 the date on which the Administrator promulgates
19 regulations implementing paragraphs (1) and (2),
20 the Administrator may adopt policies and proce-
21 dures, notwithstanding any other provision of law,
22 necessary to implement those paragraphs without re-
23 gard to section 553 of title 5, United States Code,
24 and without conducting regulatory analyses other-

1 wise required by statute, regulation, or Executive
2 order.”; and

3 (2) in section 100216 (42 U.S.C. 4101b)—

4 (A) in subsection (b)—

5 (i) in paragraph (1)—

6 (I) in subparagraph (A)—

7 (aa) in clause (v), by strik-
8 ing “and” at the end;

9 (bb) in clause (vi), by add-
10 ing “and” at the end; and

11 (cc) by inserting after clause
12 (vi) the following:

13 “(vii) all other areas of the United
14 States that are not described in clauses (i)
15 through (vi);”;

16 (II) in subparagraph (B), by
17 striking “and” at the end;

18 (III) in subparagraph (C), by
19 striking the period at the end and in-
20 serting “, including the most recently
21 available and best remote sensing
22 technology;”; and

23 (IV) by adding at the end the fol-
24 lowing:

1 “(D) when appropriate, partner with other
2 Federal agencies, States, and private entities in
3 order to meet the objectives of the program;
4 and

5 “(E) consult and coordinate with the Sec-
6 retary of Defense, the Director of the United
7 States Geological Survey, the Director of the
8 Fish and Wildlife Service, and the Adminis-
9 trator of the National Oceanic and Atmospheric
10 Administration to obtain the most up-to-date
11 maps and other information of those agencies,
12 including information relating to topography,
13 water flow, watershed characteristics, and any
14 other issues that are relevant to identifying, re-
15 viewing, updating, maintaining, and publishing
16 National Flood Insurance Program rate
17 maps.”; and

18 (ii) in paragraph (3)—

19 (I) in subparagraph (A), by re-
20 designating clauses (i) and (ii) as sub-
21 clauses (I) and (II), respectively, and
22 adjusting the margins accordingly;

23 (II) by redesignating subpara-
24 graphs (A) through (E) as clauses (i)

1 through (v), respectively, and adjust-
2 ing the margins accordingly;

3 (III) in the matter preceding
4 clause (i), as so redesignated, by
5 striking “Administrator shall in-
6 clude—” and inserting the following:

7 “Administrator—

8 “(A) shall include—”;

9 (IV) in subparagraph (A)(v), as
10 so redesignated, by striking the period
11 at the end and inserting “; and”; and

12 (V) by adding at the end the fol-
13 lowing:

14 “(B) may include—

15 “(i) any relevant information that is
16 obtained under paragraph (1)(E); and

17 “(ii) cadastral features, including, for
18 each cadastral feature—

19 “(I) the associated parcel identi-
20 fication data for that feature; and

21 “(II) to the maximum extent
22 practicable, using public and private
23 sector address data, the address of
24 that feature.”;

25 (B) in subsection (c)(2)—

1 (i) in subparagraph (B), by striking
2 “and” at the end;

3 (ii) in subparagraph (C), by striking
4 the period at the end and inserting a semi-
5 colon; and

6 (iii) by adding at the end the fol-
7 lowing:

8 “(D) not later than 5 years after the date
9 on which the National Geodetic Survey com-
10 pletes the modernization of the National Spatial
11 Reference System in 2022, updated to conform
12 with the geospatial data provided by that sys-
13 tem; and

14 “(E) spatially accurate in accordance with
15 the common protocols for geographic informa-
16 tion systems under applicable law.”;

17 (C) by redesignating subsection (f) as sub-
18 section (g);

19 (D) by inserting after subsection (e) the
20 following:

21 “(f) INCORPORATING BUILDING-SPECIFIC FLOOD
22 RISK INFORMATION.—

23 “(1) ESTABLISHMENT.—

24 “(A) IN GENERAL.—Not later than 5 years
25 after the date of enactment of the National

1 Flood Insurance Program Reauthorization and
2 Reform Act of 2021, the Administrator, in co-
3 ordination with, and as recommended by, the
4 Technical Mapping Advisory Council, shall es-
5 tablish a dynamic, database-derived digital dis-
6 play environment for flood hazard risk produc-
7 tion and dissemination.

8 “(B) CONSULTATION WITH STATES AND
9 COMMUNITIES.—In designing and constructing
10 the environment under subparagraph (A), the
11 Administrator shall—

12 “(i) leverage and partner with States
13 and communities that have successfully im-
14 plemented the same approach; and

15 “(ii) consider adopting the techniques
16 and technologies used by States and com-
17 munities described in clause (i) and apply-
18 ing them nationwide.

19 “(2) DIGITAL DISPLAY.—

20 “(A) IN GENERAL.—In carrying out para-
21 graph (1), the Administrator shall create a dig-
22 ital display prompted through dynamic querying
23 of a spatial, relational building database that
24 includes—

1 “(i) special flood hazard areas and
2 base flood elevations for purposes of lender
3 compliance with the requirements under
4 section 102 of the Flood Disaster Protec-
5 tion Act of 1973 (42 U.S.C. 4012a); and

6 “(ii) structure-specific flood risk infor-
7 mation, including, for each property ad-
8 dress—

9 “(I) the spatial footprint and ele-
10 vation of the structure relative to spe-
11 cial flood hazard areas and base flood
12 elevations;

13 “(II) elevation data applicable to
14 the property;

15 “(III) any letter of map changes;

16 “(IV) to the maximum extent
17 practicable, the full risk premium rate
18 estimated for the structure under sec-
19 tion 1307(a)(1) of the National Flood
20 Insurance Act of 1968 (42 U.S.C.
21 4014(a)(1)) based on elevation data
22 and, where applicable, the level of pro-
23 tection provided by levee systems;

24 “(V) the disclosure described in
25 section 1308(l) of the National Flood

1 Insurance Act of 1968 (42 U.S.C.
2 4015(l)), which shall include—

3 “(aa) the extent to which, if
4 any, the chargeable premium rate
5 applicable to the property is less
6 than the full risk premium rate
7 under section 1307(a)(1) of that
8 Act (42 U.S.C. 4014(a)(1)); and

9 “(bb) an explanation of the
10 difference described in item (aa)
11 and the methodology used to rate
12 the property;

13 “(VI) the estimated cost to re-
14 pair the structure in the case of dam-
15 age from floods with recurrence inter-
16 vals ranging from the 10 percent an-
17 nual chance event to the 0.2 percent
18 annual chance event;

19 “(VII) the cost-effectiveness of
20 mitigating the structure using com-
21 mon methods and how the chargeable
22 premium rate would change based on
23 each mitigation method; and

1 “(VIII) the claims history of the
2 structure, including the amount and
3 date of each loss.

4 “(B) PRIVACY REQUIREMENTS.—With re-
5 spect to the database described in subparagraph
6 (A), including any data used to create that
7 database, the Administrator may not dissemi-
8 nate the database to any person other than the
9 owner or leaseholder of a property identified in
10 the database.

11 “(3) DATABASE.—

12 “(A) IN GENERAL.—The Administrator
13 shall—

14 “(i) develop a spatial, relational data-
15 base of buildings for which flood hazard
16 has been identified through the National
17 Flood Insurance Program; and

18 “(ii) obtain the data necessary to sup-
19 port the digital display created under para-
20 graph (2).

21 “(B) DATA.—The data obtained under
22 subparagraph (A) shall include, at a min-
23 imum—

24 “(i) footprints and elevations (includ-
25 ing lowest adjacent grade and first floor)

1 from Light Detection and Ranging (com-
2 monly known as ‘LiDAR’) data collections
3 or other data collection methods that meet
4 or exceed the standards for buildings, as
5 determined by the Administrator;

6 “(ii) elevation data;

7 “(iii) parcel, address, and imagery
8 data necessary for the identification, as-
9 sessment, and reduction of flood hazards
10 for individual properties;

11 “(iv) flood insurance rate maps, stud-
12 ies, and supporting data;

13 “(v) letters of map change; and

14 “(vi) any other data that the Adminis-
15 trator determines necessary to collect to
16 meet the objectives of this section.

17 “(4) DATA PROCUREMENT.—The Administrator
18 shall obtain any data necessary to establish the envi-
19 ronment under paragraph (1), including by—

20 “(A) directing communities participating
21 in the National Flood Insurance Program, by
22 regulation, to collect and supply information,
23 including elevation data, for each structure that
24 obtains a construction or other development
25 permit within—

1 “(i) a special flood hazard area; or

2 “(ii) an advisory special flood hazard
3 area adopted by the community;

4 “(B) issuing guidelines and standards, as
5 determined by the Administrator;

6 “(C) partnering with other Federal, State,
7 local, and private stakeholders to the greatest
8 extent possible to obtain and share existing
9 data that meets or exceeds the standards deter-
10 mined by the Administrator under subpara-
11 graph (B); and

12 “(D) contracting with private companies to
13 obtain new LiDAR data collections or elevation
14 data.

15 “(5) NFIP PREMIUM CREDIT.—The Adminis-
16 trator shall provide a 1-time premium credit of not
17 more than \$500 to a policyholder for the purchase
18 of an elevation certificate.

19 “(6) MASS LETTERS OF MAP CHANGE.—In co-
20 ordination with States and communities that have
21 successfully implemented a dynamic, database-de-
22 rived digital display environment for flood hazard
23 risk production and dissemination, the Adminis-
24 trator shall issue guidelines for the adoption and in-
25 tegration into the program established under sub-

1 section (a) of LiDAR-based letter of map amend-
2 ment approaches.

3 “(7) ANNUAL REPORT.—The Administrator
4 shall submit to the Committee on Banking, Housing,
5 and Urban Affairs of the Senate and the Committee
6 on Financial Services of the House of Representa-
7 tives an annual progress report on the implementa-
8 tion of this subsection, which shall include rec-
9 ommendations to reduce the cost and improve the
10 implementation of this subsection.”; and

11 (E) in subsection (g), as so redesignated—

12 (i) by striking “this section
13 \$400,000,000” and inserting the following:

14 “this section—

15 “(1) \$500,000,000”; and

16 (ii) by striking the period at the end

17 and inserting the following: “; and

18 “(2) \$500,000,000 for each of fiscal years 2022
19 through 2027.”.

20 (b) APPEALS.—

21 (1) IN GENERAL.—

22 (A) RIGHT TO APPEAL.—Section 1360 of
23 the National Flood Insurance Act of 1968 (42
24 U.S.C. 4101) is amended by adding at the end
25 the following:

1 “(k) APPEALS OF EXISTING MAPS.—

2 “(1) RIGHT TO APPEAL.—Subject to paragraph
3 (6), a State or local government, or the owner or les-
4 see of real property, that makes a formal request to
5 the Administrator to update a flood insurance rate
6 map that the Administrator denies may at any time
7 appeal the denial in accordance with this subsection.

8 “(2) BASIS FOR APPEAL.—The basis for an ap-
9 peal under this subsection shall be the possession of
10 knowledge or information that—

11 “(A) the base flood elevation level or des-
12 ignation of any aspect of a flood insurance rate
13 map is scientifically or technically inaccurate; or

14 “(B) factors exist that mitigate the risk of
15 flooding, including ditches, banks, walls, vegeta-
16 tion, levees, lakes, dams, reservoirs, basin, re-
17 tention ponds, and other natural or manmade
18 topographical features.

19 “(3) APPEALS PROCESS.—

20 “(A) ADMINISTRATIVE ADJUDICATION.—
21 The Administrator shall determine an appeal
22 under this subsection by making a final adju-
23 dication on the record, after providing an op-
24 portunity for an administrative hearing.

25 “(B) RIGHTS UPON ADVERSE DECISION.—

1 “(i) OPTIONAL ARBITRATION.—If an
2 appeal determined under subparagraph (A)
3 does not result in a decision in favor of the
4 State, local government, owner, or lessee,
5 that party may request that an appeal of
6 the adverse decision be heard—

7 “(I) through independent, non-
8 binding arbitration; or

9 “(II) by the Scientific Resolution
10 Panel provided for in section 1363A.

11 “(ii) PROCESS.—Notwithstanding any
12 provision of section 1363A(c)(4) regarding
13 the binding nature of the recommendations
14 of the Scientific Resolution Panel, the Ad-
15 ministrator shall establish a process for the
16 purposes of clause (i) under which an arbi-
17 trator or the Scientific Resolution Panel,
18 as applicable, provides a non-binding rec-
19 ommendation to the Administrator.

20 “(4) RELIEF.—

21 “(A) WHOLLY SUCCESSFUL APPEALS.—If
22 the Administrator determines in an appeal
23 under this subsection that the property of a pol-
24 icyholder that had been included in a special
25 flood hazard area under the flood insurance

1 rate map is actually not in a special flood haz-
2 ard area—

3 “(i) the policyholder may cancel the
4 policy at any time during the year in which
5 the Administrator makes the determina-
6 tion; and

7 “(ii) the Administrator shall provide
8 the policyholder a refund equal to the
9 amount of—

10 “(I) any premiums that the pol-
11 icyholder paid during the year de-
12 scribed in clause (i); and

13 “(II) any premiums that the pol-
14 icyholder paid for flood insurance cov-
15 erage that the policyholder was re-
16 quired to purchase or maintain during
17 the 2-year period preceding the year
18 described in clause (i).

19 “(B) PARTIALLY SUCCESSFUL APPEALS.—
20 If the Administrator determines in an appeal
21 under this subsection that mitigating factors
22 have reduced, but not eliminated, the risk of
23 flooding to a property, the Administrator
24 shall—

1 “(II) the amount of premiums
2 that the policyholder would have been
3 required to pay if the reduced amount
4 of flood insurance coverage required,
5 as described in clause (i), had been in
6 effect during the period described in
7 subclause (I) of this clause.

8 “(C) ADDITIONAL RELIEF.—The Adminis-
9 trator may provide additional refunds in excess
10 of the amounts required under subparagraphs
11 (A) and (B) if the Administrator determines
12 that such additional refunds are warranted.

13 “(5) RECOVERY OF COSTS.—

14 “(A) APPEAL EXPENSES.—If a State or
15 local government, or the owner or lessee of real
16 property, incurs any expense in connection with
17 an appeal under this subsection that is based
18 on a scientific or technical error made by the
19 Administrator and that is successful in whole or
20 part regarding the designation of the base flood
21 elevation or any aspect of a flood insurance rate
22 map, including elevation or designation of a
23 special flood hazard area, the Administrator
24 shall reimburse the State, local government,

1 owner, or lessee in accordance with subpara-
2 graph (B).

3 “(B) REIMBURSABLE EXPENSES.—The
4 Administrator—

5 “(i) may reimburse a party under
6 subparagraph (A) for reasonable expenses
7 described in that subparagraph—

8 “(I) including for a service pro-
9 vided by a surveyor, engineer, or sci-
10 entific expert; and

11 “(II) to the extent measured by
12 the ratio of the successful portion of
13 the appeal as compared to the entire
14 appeal; and

15 “(ii) may not reimburse a party under
16 subparagraph (A) for—

17 “(I) the cost of legal services; or

18 “(II) the payment of any fee or
19 expense, the payment of which was
20 agreed to be contingent upon the re-
21 sult of the appeal.

22 “(6) GUIDANCE.—The Administrator shall
23 issue guidance to implement this subsection, which
24 shall not be subject to the notice and comment re-

1 requirements under section 553 of title 5, United
2 States Code.”.

3 (B) TECHNICAL AND CONFORMING AMEND-
4 MENTS.—Section 1310(a) of the National Flood
5 Insurance Act of 1968 (42 U.S.C. 4017(a)) is
6 amended—

7 (i) in paragraph (7), by striking
8 “and” at the end;

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

12 (iii) by adding at the end the fol-
13 lowing:

14 “(9) for providing reimbursements of expenses
15 of flood insurance rate map appeals under section
16 1360(k)(5).”.

17 (2) DEADLINE FOR ISSUANCE OF GUIDANCE.—
18 Not later than 180 days after the date of enactment
19 of this Act, the Administrator shall issue the guid-
20 ance required under subsection (k)(6) of section
21 1360 of the National Flood Insurance Act of 1968
22 (42 U.S.C. 4101), as added by paragraph (1)(A).

23 (3) ISSUANCE OF REGULATIONS FOR MAP AP-
24 PEALS.—Not later than 180 days after the date of
25 enactment of this Act, the Administrator shall issue

1 the regulations required to be issued under sub-
2 section (f) of section 1363 of the National Flood In-
3 surance Act of 1968 (42 U.S.C. 4104) and any rel-
4 evant guidance to implement that subsection.

5 **SEC. 209. LEVEE-PROTECTED AREAS.**

6 Section 100216(b) of the Biggert-Waters Flood In-
7 surance Reform Act of 2012 (42 U.S.C. 4101b(b)) is
8 amended by adding at the end the following:

9 “(4) AREAS PROTECTED BY LEVEE SYSTEMS.—

10 “(A) APPLICABILITY.—To facilitate the
11 implementation of this section, and notwith-
12 standing any other provision of law, this para-
13 graph shall apply to a community in which the
14 Administrator establishes rates for flood insur-
15 ance under the National Flood Insurance Pro-
16 gram in a levee-protected area.

17 “(B) NON-ACCREDITED LEVEE SYS-
18 TEMS.—

19 “(i) ASSESSMENT OF PROTECTION
20 PROVIDED BY NON-ACCREDITED LEVEE
21 SYSTEMS.—With respect to an area in
22 which the pertinent levee system fails to
23 meet the minimum design, operation, and
24 maintenance standards of the National
25 Flood Insurance Program described in sec-

1 tion 65.10 of title 44, Code of Federal
2 Regulations, or any successor regulation,
3 for levee accreditation on a National Flood
4 Insurance Program rate map under the
5 Risk Rating 2.0 methodology (or any sub-
6 stantially similar methodology), the Admin-
7 istrator shall, not later than 1 year after
8 the date of enactment of this paragraph—

9 “(I) through rules issued under
10 section 553 of title 5, United States
11 Code, establish—

12 “(aa) the analysis that the
13 Administrator will perform to de-
14 termine the level of protection
15 provided by the non-accredited
16 levee system; and

17 “(bb) the procedure by
18 which the Administrator will es-
19 tablish rates for flood insurance
20 under the National Flood Insur-
21 ance Program for that area; and

22 “(II)(aa) issue guidance with re-
23 spect to the matters described in
24 items (aa) and (bb) of subclause (I);
25 or

1 data on which the Administrator is re-
2 lying in establishing that increased
3 rate.

4 “(C) MANDATORY PURCHASE REQUIRE-
5 MENT FOR LEVEE SYSTEMS.—In any area in
6 which the pertinent levee system meets the min-
7 imum design, operation, and maintenance
8 standards described in section 65.10 of title 44,
9 Code of Federal Regulations, or any successor
10 regulation, the Administrator may not—

11 “(i) designate the levee-protected area
12 a special flood hazard area; or

13 “(ii) impose any requirement to pur-
14 chase flood insurance for a structure lo-
15 cated in the area.

16 “(D) APPEALS PROCESS.—

17 “(i) IN GENERAL.—Not later than 1
18 year after the date of enactment of this
19 paragraph, the Administrator shall develop
20 an appeals process for communities located
21 within a levee-protected area described in
22 this paragraph that disputes the assess-
23 ment made by the Administrator of the
24 level of protection provided by the levee or
25 the residual risk associated with the levee.

1 “(ii) DEFINITION REQUIREMENTS.—

2 With respect to the appeals process estab-
3 lished under clause (i)—

4 “(I) subject to subclause (II), the
5 Administrator shall make clear which
6 definition of the terms ‘levee’ and ‘re-
7 sidual risk’ shall apply for the pur-
8 poses of the appeal; and

9 “(II) an appellant in an appeal
10 brought under that process may re-
11 quire that the Administrator use the
12 definition of the term ‘levee’ in section
13 59.1 of title 44, Code of Federal Reg-
14 ulations, or any successor regula-
15 tion.”.

16 **SEC. 210. COMMUNITY-WIDE FLOOD MITIGATION ACTIVI-**
17 **TIES.**

18 It is the sense of Congress that the Administrator
19 should consider flood mitigation activities that—

20 (1) provide benefits to an entire floodplain or
21 community, or to a portion of such a community;

22 (2) consider all available and practicable ap-
23 proaches; and

24 (3) the Administrator determines—

25 (A) are technically feasible;

1 (B) have the highest net benefits; and

2 (C) are consistent with mitigation plans

3 approved by the Administrator.

4 **TITLE III—SOLVENCY**

5 **SEC. 301. FORBEARANCE ON NFIP INTEREST PAYMENTS.**

6 (a) IN GENERAL.—During the 5-year period begin-
7 ning on the date of enactment of this Act, the Secretary
8 of the Treasury may not charge the Administrator interest
9 on amounts borrowed by the Administrator under section
10 1309(a) of the National Flood Insurance Act of 1968 (42
11 U.S.C. 4016(a)) that were outstanding as of the date of
12 enactment of this Act, including amounts borrowed after
13 the date of enactment of this Act that refinance debts that
14 existed before the date of enactment of this Act.

15 (b) USE OF SAVED AMOUNTS.—There shall be depos-
16 ited into the National Flood Mitigation Fund an amount
17 equal to the interest that would have accrued on the bor-
18 rowed amounts during the 5-year period described in sub-
19 section (a) at the time at which those interest payments
20 would have otherwise been paid, which, notwithstanding
21 any provision of section 1367 of the National Flood Insur-
22 ance Act of 1968 (42 U.S.C. 4104d), the Administrator
23 shall use to carry out the program established under sec-
24 tion 1366 of the National Flood Insurance Act of 1968
25 (42 U.S.C. 4104c).

1 (c) NO RETROACTIVE ACCRUAL.—After the 5-year
 2 period described in subsection (a), the Secretary of the
 3 Treasury shall not require the Administrator to repay any
 4 interest that, but for that subsection, would have accrued
 5 on the borrowed amounts described in that subsection dur-
 6 ing that 5-year period.

7 **SEC. 302. CAP ON WRITE YOUR OWN COMPANY COMPENSA-**
 8 **TION.**

9 (a) IN GENERAL.—Section 1311 of the National
 10 Flood Insurance Act of 1968 (42 U.S.C. 4018) is amend-
 11 ed—

12 (1) by redesignating subsection (b) as sub-
 13 section (c); and

14 (2) by inserting after subsection (a) the fol-
 15 lowing:

16 “(b) LIMITATION ON COMPENSATION; MINIMUM
 17 AGENT COMMISSIONS.—In negotiating with appropriate
 18 representatives of the insurance industry under subsection
 19 (a), the Administrator shall ensure that—

20 “(1) any reimbursement paid to a property and
 21 casualty insurance company for selling, writing, and
 22 servicing flood insurance policies is not more than
 23 22.46 percent of the aggregate amount of premiums
 24 charged by the insurance company; and

1 “(2) an insurance company pays a portion of
2 the reimbursement described in paragraph (1) to
3 agents of the company as a commission, in an
4 amount that is not less than 15 percent of the ag-
5 gregate amount of the premiums sold by the
6 agent.”.

7 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—
8 Section 1311 of the National Flood Insurance Act of 1968
9 (42 U.S.C. 4018), as amended by subsection (a), is
10 amended—

11 (1) in subsection (a), by striking “The Adminis-
12 trator” and inserting “**IN GENERAL.**—The Adminis-
13 trator”; and

14 (2) in subsection (c), as so redesignated by sub-
15 section (a) of this section, by striking “For purposes
16 of subsection (a)” and inserting “**DEFINITIONS.**—
17 For purposes of this section”.

18 **SEC. 303. THIRD PARTY SERVICE PROVIDER COSTS; TRANS-**
19 **PARENCY.**

20 (a) **IN GENERAL.**—Section 100224(d) of the Biggert-
21 Waters Flood Insurance Reform Act of 2012 (42 U.S.C.
22 4081 note) is amended—

23 (1) by striking “Not later than 12 months after
24 the date of enactment of this Act, the Adminis-
25 trator” and inserting the following:

1 “(1) IN GENERAL.—The Administrator”; and

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

3 “(2) VENDOR COSTS; TRANSPARENCY.—In
4 issuing the rule under paragraph (1), the Adminis-
5 trator shall—

6 “(A) develop a schedule to determine the
7 actual costs of Write Your Own third party
8 service providers, including claims adjusters and
9 engineering companies;

10 “(B) provide that if a Write Your Own
11 company requests reimbursement for the costs
12 of a service or product provided to the company
13 by a vendor, the Administrator only reimburses
14 the company for the actual costs of the service
15 or products; and

16 “(C) require that all reimbursements to
17 Write Your Own companies be made public, in-
18 cluding a description of the product or service
19 provided to which the reimbursement per-
20 tains.”.

21 (b) DEADLINE FOR REVISED RULE.—Not later than
22 90 days after the date of enactment of this Act, the Ad-
23 ministrator shall issue a revised rule under section
24 100224(d) of the Biggert-Waters Flood Insurance Reform

1 Act of 2012 (42 U.S.C. 4081 note), as amended by sub-
2 section (a).

3 **SEC. 304. AVAILABILITY OF NFIP CLAIMS DATA.**

4 (a) STUDY REQUIRED.—

5 (1) IN GENERAL.—The Administrator shall
6 study the feasibility of selling or licensing the use of
7 historical structure-specific National Flood Insur-
8 ance Program claims data (referred to in this sec-
9 tion as “covered claims data”) to nongovernmental
10 entities.

11 (2) CONTENTS.—In conducting the study re-
12 quired under paragraph (1), the Administrator shall,
13 at a minimum—

14 (A) investigate 1 or more methods of pro-
15 viding the most specific covered claims data
16 possible while reasonably protecting policyholder
17 privacy;

18 (B) review existing means, as of the date
19 of enactment of this Act, by which the Federal
20 Government and nongovernmental entities pro-
21 vide leases or licenses to private persons, and
22 the various regulations, terms, conditions, and
23 guidance employed;

24 (C) identify potential uses for covered
25 claims data and any known risks concerning

1 those uses, including the risk that private insur-
2 ance companies will use the data to issue flood
3 insurance policies with respect to properties
4 that have the lowest level of flood risk, which
5 would require the National Flood Insurance
6 Program to issue those policies with respect to
7 properties with higher levels of flood risk;

8 (D) identify mechanisms for determining
9 the likely market value for access to covered
10 claims data;

11 (E) consider whether selling or licensing
12 the use of covered claims data, as described in
13 paragraph (1), would be in compliance with sec-
14 tion 552a of title 5, United States Code (com-
15 monly known as the “Privacy Act of 1974”);

16 (F) review the costs of researching, devel-
17 oping, and producing previous releases of cov-
18 ered claims data and identify if releasing this
19 data has benefitted the National Flood Insur-
20 ance Program in a tangible way that benefits
21 policyholders; and

22 (G) recommend actions the Administrator
23 could take, if any, to prevent unintended con-
24 sequences associated with the sale or licensing

1 for private insurance purposes covered claims
2 data.

3 (b) **REPORT BY ADMINISTRATOR.**—Not later than 1
4 year after the date of enactment of this Act, the Adminis-
5 trator shall submit to the Committee on Banking, Hous-
6 ing, and Urban Affairs of the Senate and the Committee
7 on Financial Services of the House of Representatives a
8 report that contains the results and conclusions of the
9 study conducted under subsection (a), which shall include
10 an analysis of any recommendations made by the study.

11 **SEC. 305. REFUSAL OF MITIGATION ASSISTANCE.**

12 Section 1366 of the National Flood Insurance Act of
13 1968 (42 U.S.C. 4104c) is amended—

14 (1) in subsection (a), in the matter preceding
15 paragraph (1), in the first sentence, by inserting
16 “and, with respect to financial assistance described
17 in paragraph (2), using amounts made available
18 from the Disaster Relief Fund in accordance with
19 section 203(n) of the Robert T. Stafford Disaster
20 Relief and Emergency Assistance Act (42 U.S.C.
21 5133(n))” after “section 1367”;

22 (2) by redesignating subsection (h) as sub-
23 section (i); and

24 (3) by inserting after subsection (g) the fol-
25 lowing:

1 “(h) REFUSAL OF ASSISTANCE.—

2 “(1) DEFINITION.—In this subsection, the term
3 ‘bona fide offer of assistance’ means an offer of as-
4 sistance made by the Administrator to a policyholder
5 under the national flood insurance program that—

6 “(A) relates to mitigation activities with
7 respect to the structure insured under that pro-
8 gram;

9 “(B) covers 100 percent of the cost of the
10 mitigation activities described in subparagraph
11 (A);

12 “(C) permits the policyholder to continue
13 to live in the structure to which the policy re-
14 lates; and

15 “(D) is carried out under a mitigation
16 plan.

17 “(2) PENALTY.—If, after the date of enactment
18 of the National Flood Insurance Program Reautho-
19 rization and Reform Act of 2021, a policyholder
20 under the national flood insurance program refuses
21 a bona fide offer of assistance with respect to the
22 property so insured, the Administrator shall, not-
23 withstanding any other provision of this title, in-
24 crease the chargeable risk premium rate for flood in-

1 surance under this title for the property by 25 per-
2 cent each year until—

3 “(A) the policyholder accepts the bona fide
4 offer of assistance; or

5 “(B) that chargeable risk premium rate is
6 actuarially sound.”.

7 **SEC. 306. MULTIPLE STRUCTURE MITIGATION.**

8 Section 1308A(a) of the National Flood Insurance
9 Act of 1968 (42 U.S.C. 4015a(a)) is amended—

10 (1) in the first sentence, by striking “The Ad-
11 ministrator” and inserting the following:

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), the Administrator”; and

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

15 “(2) RELIEF FOR SMALL BUSINESSES AND
16 NONPROFITS.—

17 “(A) DEFINITION.—In this paragraph, the
18 term ‘covered small business or nonprofit orga-
19 nization’ means a small business concern (as
20 defined in section 3 of the Small Business Act
21 (15 U.S.C. 632)) or an organization that is de-
22 scribed in section 501(c)(3) of the Internal Rev-
23 enue Code of 1986 and is exempt from taxation
24 under section 501(a) of such Code that owns

1 not fewer than 3 structures that are located on
2 a single property.

3 “(B) RELIEF.—The Administrator may
4 not impose a surcharge under this section for a
5 policy for flood insurance coverage under the
6 National Flood Insurance Program for a cov-
7 ered small business concern or nonprofit organi-
8 zation with respect to more than 2 detached
9 units or buildings located on a single property
10 if the covered small business or nonprofit orga-
11 nization certifies to the Administrator that the
12 savings from the surcharge not being imposed
13 shall be used for flood mitigation on the prop-
14 erty on which the units or buildings are located.

15 “(C) RULES.—Not later than 1 year after
16 the date of enactment of this paragraph, the
17 Administrator shall issue rules establishing the
18 process for submitting a certification described
19 in subparagraph (B).”.

20 **TITLE IV—POLICYHOLDER**
21 **PROTECTION AND FAIRNESS**

22 **SEC. 401. EARTH MOVEMENT FIX AND ENGINEER STAND-**
23 **ARDS.**

24 (a) REBUTTABLE PRESUMPTION FOR FOUNDATION
25 AND STRUCTURAL DAMAGE.—

1 (1) IN GENERAL.—Section 1312 of the Na-
2 tional Flood Insurance Act of 1968 (42 U.S.C.
3 4019), as amended by section 106(b), is amended by
4 adding at the end the following:

5 “(e) REBUTTABLE PRESUMPTION FOR FOUNDATION
6 AND STRUCTURAL DAMAGE.—

7 “(1) IN GENERAL.—For the purposes of the
8 Administrator determining coverage under the
9 standard flood insurance policy under the national
10 flood insurance program, a rebuttable presumption
11 that physical damage to the foundation of, or struc-
12 tural damage to, a structure was not caused by
13 earth movement shall apply if—

14 “(A) flood caused direct physical change to
15 the structure; and

16 “(B) there is damage to the foundation of,
17 or structural damage to, the structure that was
18 not present before the flood, as demonstrated
19 by a certification from the policyholder.

20 “(2) REBUTTAL.—In determining coverage as a
21 result of the rebuttable presumption under para-
22 graph (1), an insurance company may rebut the pre-
23 sumption only by providing the Administrator with
24 an engineering report that—

1 sulting in failure of a foundation or to one
2 of the structural components of the foun-
3 dation (commonly known as ‘scouring’); or
4 “(v) otherwise caused by flood.

5 “(3) MINIMUM STANDARDS FOR ENGINEERING
6 REPORTS.—The Administrator shall issue minimum
7 standards—

8 “(A) regarding the form and content of en-
9 gineering reports used to assist insurance
10 claims adjusters with respect to carrying out
11 this subsection; and

12 “(B) that—

13 “(i) include a requirement that any
14 such engineering report shall be signed and
15 have a seal affixed by an engineer who is
16 licensed in the State in which the property
17 to which the claim relates is located; and

18 “(ii) are consistent with generally ac-
19 cepted practices in—

20 “(I) the field of forensic engi-
21 neering; and

22 “(II) the insurance industry.

23 “(4) DOCUMENTATION OF CONDITION OF
24 FOUNDATION.—

1 “(A) IN GENERAL.—If the holder of a pol-
2 icy for flood insurance coverage made available
3 under this title documents the condition of the
4 foundation of a structure covered by the policy
5 with a photograph, video recording, or other-
6 wise, and submits the documentation to the Ad-
7 ministrators or the Write Your Own Company
8 that sold the policy, as applicable, the Adminis-
9 trator or Write Your Own Company, respec-
10 tively, shall keep the documentation and use the
11 documentation when adjusting a claim that
12 arises under the policy.

13 “(B) NOTICE TO POLICYHOLDERS.—The
14 Administrator shall notify a policyholder, when
15 the policyholder purchases or renews a flood in-
16 surance policy sold under this title, that the
17 policyholder may document the condition of the
18 foundation of a structure covered by the policy
19 in accordance with subparagraph (A).

20 “(5) RULE OF CONSTRUCTION.—Nothing in
21 this subsection may be construed to modify the
22 terms and conditions of the standard flood insurance
23 policy.”.

24 “(2) APPLICATION.—The amendment made by
25 paragraph (1) shall apply with respect to a claim

1 with a date of loss that is on or after the date that
2 is 90 days after the date of enactment of this Act.

3 (b) REGULATIONS.—Not later than 90 days after the
4 date of enactment of this Act, the Administrator shall
5 issue the standards required under subsection (e)(3) of
6 section 1312 of the National Flood Insurance Act of 1968
7 (42 U.S.C. 4019), as added by subsection (a)(1).

8 **SEC. 402. COVERAGE OF PRE-FIRM CONDOMINIUM BASE-**
9 **MENTS AND STUDY ON STREET RAISING.**

10 (a) BASEMENT CLARIFICATION.—

11 (1) IN GENERAL.—Section 1305 of the Na-
12 tional Flood Insurance Act of 1968 (42 U.S.C.
13 4012) is amended by adding at the end the fol-
14 lowing:

15 “(e) AVAILABILITY OF INSURANCE FOR PRE-FIRM
16 CONDOMINIUM BASEMENTS.—

17 “(1) DEFINITION.—In this subsection, the term
18 ‘pre-FIRM condominium building’ means a condo-
19 minium building that was not constructed or sub-
20 stantially improved after the later of—

21 “(A) December 31, 1974; or

22 “(B) the effective date of the initial flood
23 insurance rate map published by the Adminis-
24 trator under section 1360 for the area in which
25 the building is located.

1 “(2) COVERAGE.—The Administrator shall offer
2 an optional rider to a contract for flood insurance
3 made available under this title that covers the base-
4 ment of a pre-FIRM condominium building that
5 serves as a separate residential unit within that con-
6 dominium building.”.

7 (2) AMENDMENTS TO REGULATIONS.—Not later
8 than 180 days after the date of enactment of this
9 Act, the Administrator shall make any amendments
10 to the regulations of the Federal Emergency Man-
11 agement Agency that are necessary as a result of the
12 amendment made by paragraph (1).

13 (b) STUDY ON CONSEQUENCES OF STREET-RAIS-
14 ING.—

15 (1) DEFINITION.—In this subsection, the term
16 “affected property” means a property containing an
17 area—

18 (A) the floor of which was located at or
19 above grade before the community raised the
20 street adjacent to the property; and

21 (B) after the street-raising described in
22 subparagraph (A), that was designated as a
23 basement because of the street-raising.

24 (2) STUDY; REPORT.—Not later than 1 year
25 after the date of enactment of this Act, the Adminis-

1 trator shall study and submit to Congress a report
2 on the consequences of street-raising on flood insur-
3 ance coverage for an affected property under the
4 National Flood Insurance Program, including the
5 cost implications for the property owner.

6 **SEC. 403. GUIDANCE ON REMEDIATION AND POLICY-**
7 **HOLDER DUTIES.**

8 (a) IN GENERAL.—Section 1312 of the National
9 Flood Insurance Act of 1968 (42 U.S.C. 4019), as amend-
10 ed by section 401(a)(1), is amended by adding at the end
11 the following:

12 “(f) GUIDANCE ON MOLD REMEDIATION.—

13 “(1) IN GENERAL.—The Administrator shall
14 issue guidance relating to the identification of rea-
15 sonable actions that a policyholder of coverage for
16 flood insurance made available under this title may
17 take to inspect and maintain the property to which
18 that coverage applies—

19 “(A) after a flood recedes; and

20 “(B) in order to avoid damage to the prop-
21 erty that is caused by mold, mildew, moisture,
22 or water.

23 “(2) CONSIDERATIONS.—In developing guid-
24 ance under paragraph (1), the Administrator shall
25 consider—

1 “(A) any applicable laws and regulations;

2 “(B) the terms and conditions of the
3 standard flood insurance policy;

4 “(C) technical best practices;

5 “(D) the costs of remediation in relation to
6 the condition of a property described in that
7 paragraph; and

8 “(E) the actions that the Administrator
9 may reasonably expect a policyholder described
10 in that paragraph to take, given the likely chal-
11 lenges faced by the policyholder after a flood.

12 “(3) REGULAR REVIEW.—The Administrator
13 shall—

14 “(A) regularly review the guidance issued
15 under paragraph (1); and

16 “(B) revise the guidance issued under
17 paragraph (1) as the Administrator determines
18 appropriate.

19 “(4) ANNUAL DISTRIBUTION.—The Adminis-
20 trator shall provide a copy of the guidance issued
21 under paragraph (1) to a policyholder at the time of
22 the purchase or renewal of a flood insurance policy
23 sold under this title.”.

24 (b) INITIAL ISSUANCE.—Not later than 1 year after
25 the date of enactment of this Act, the Administrator shall

1 issue the guidance required under subsection (f) of section
2 1312 of the National Flood Insurance Act of 1968 (42
3 U.S.C. 4019), as added by subsection (a) of this section.

4 (c) ACCESSIBILITY, REASONABLENESS AND DEGREE
5 OF DAMAGE.—Section 1312 of the National Flood Insur-
6 ance Act of 1968 (42 U.S.C. 4019), as amended by sub-
7 section (a), is amended by adding at the end the following:

8 “(g) EXCLUSION OF CERTAIN DAMAGE.—For pur-
9 poses of determining whether damage caused by mold, mil-
10 dew, moisture, or water to a property shall be excluded
11 from coverage under the standard flood insurance policy—

12 “(1) subject to paragraph (2), only the degree
13 of damage caused by mold, mildew, moisture, or
14 water that could have been avoided through inspec-
15 tion and maintenance may be excluded from that
16 coverage; and

17 “(2) the condition of the property to which the
18 damage relates may not be considered to be attrib-
19 utable to the policyholder with respect to the prop-
20 erty, including any failure by the policyholder to in-
21 spect and maintain the property after a flood re-
22 cedes, if—

23 “(A) the policyholder was denied access to
24 the property after the flood receded because
25 of—

- 1 “(i) a lawful government order;
- 2 “(ii) a determination by local authori-
- 3 ties that the property—
- 4 “(I) is unsafe or unstable; or
- 5 “(II) shall be condemned; or
- 6 “(iii) otherwise unsafe conditions;
- 7 “(B) a reasonable individual exercising
- 8 reasonable judgment could not be expected to
- 9 inspect, maintain, or mitigate the damage to
- 10 the property under the circumstances; or
- 11 “(C) the policyholder faced particular chal-
- 12 lenges, including—
- 13 “(i) practical or financial difficulty in
- 14 inspecting or maintaining the property;
- 15 “(ii) the need to address other more
- 16 immediate priorities, including—
- 17 “(I) the health and well-being of
- 18 the policyholder and the family of the
- 19 policyholder;
- 20 “(II) the preservation of basic
- 21 items;
- 22 “(III) displacement; and
- 23 “(IV) other issues that make in-
- 24 spection and maintenance of the prop-

1 erty a near-term challenge for the pol-
2 icyholder; and

3 “(iii) the unavailability of contractors
4 or other individuals to perform any re-
5 quired inspection and maintenance.”.

6 **SEC. 404. APPEAL OF DECISIONS RELATING TO FLOOD IN-**
7 **SURANCE COVERAGE.**

8 (a) ENHANCED POLICYHOLDER APPEALS PROC-
9 ESS.—

10 (1) IN GENERAL.—Part C of chapter II of the
11 National Flood Insurance Act of 1968 (42 U.S.C.
12 4081 et seq.) is amended by adding at the end the
13 following:

14 **“SEC. 1349. APPEAL OF DECISIONS RELATING TO FLOOD IN-**
15 **SURANCE COVERAGE.**

16 “(a) DEFINITION.—In this section, the term ‘Office’,
17 except as otherwise specified, means the Independent Of-
18 fice for Policyholder Appeals established under subsection
19 (b).

20 “(b) INDEPENDENT OFFICE FOR POLICYHOLDER AP-
21 PEALS.—Not later than 180 days after the date of enact-
22 ment of this section, the Administrator shall establish an
23 Independent Office for Policyholder Appeals to provide for
24 a non-adversarial and fair administrative review of appeals
25 submitted under subsection (c)(1).

1 “(c) APPEALS PROCESS.—

2 “(1) RIGHT TO APPEAL.—A policyholder of a
3 flood insurance policy issued under the National
4 Flood Insurance Program may appeal the denial of
5 a claim arising under the policy in writing to the Of-
6 fice not later than 1 year after receipt of the denial.

7 “(2) EXHAUSTION OF ADMINISTRATIVE AP-
8 PEALS REQUIRED BEFORE FILING CIVIL ACTION.—A
9 policyholder of a flood insurance policy issued under
10 the National Flood Insurance Program may not in-
11 stitute an action on a denied claim arising under the
12 policy against the Administrator in a United States
13 district court under section 1333 or 1341, as appli-
14 cable, unless the policyholder has exhausted the ap-
15 peals process under this section.

16 “(d) DUTIES AND RESPONSIBILITIES.—In admin-
17 istering appeals submitted under subsection (c)(1), the Of-
18 fice shall—

19 “(1) issue final appeal decisions through an ap-
20 peal process established by the Office;

21 “(2) disseminate information to appellants con-
22 cerning the information that an appellant may in-
23 clude in the appeal submissions;

1 “(3) provide an appellant with an opportunity
2 to discuss any issue on appeal with a claims expert
3 in the Office;

4 “(4) provide aggregated appeals data to the Of-
5 fice of the Flood Insurance Advocate for use in ful-
6 filling the duties and responsibilities of that office
7 under section 24(b) of the Homeowner Flood Insur-
8 ance Affordability Act of 2014 (42 U.S.C. 4033(b));
9 and

10 “(5) publish final appeal decisions to a public-
11 facing website—

12 “(A) to inform the public; and

13 “(B) for awareness to support trans-
14 parency and training for Write Your Own Com-
15 panies and contractors of the Federal Emer-
16 gency Management Agency.

17 “(e) REGULATIONS.—

18 “(1) IN GENERAL.—For purposes of imple-
19 menting the appeals process under this section, the
20 Administrator may promulgate new regulations or
21 use regulations that were in effect on the date of en-
22 actment of this section, except that—

23 “(A) the Administrator may not declare
24 any appeal ineligible if the policyholder submits
25 the appeal to the Office not later than 1 year

1 after the date on which the policyholder receives
2 the denial of the applicable claim, as required
3 under subsection (c)(1);

4 “(B) upon receiving all information nec-
5 essary to complete an appeal, the Office shall
6 notify the appellant that the Office will make a
7 final decision not later than 90 days after re-
8 ceipt of that information; and

9 “(C) not later than 90 days after receipt
10 of all information necessary to complete an ap-
11 peal, the Office shall make a final decision on
12 the appeal.

13 “(2) ENFORCEMENT OF FINAL DECISION DEAD-
14 LINE.—If the Office does not comply with the dead-
15 line under paragraph (1)(C) with respect to an ap-
16 peal, and the policyholder that brought the appeal is
17 ultimately successful, the Administrator shall pay to
18 the policyholder interest on the claim that is the
19 subject of the appeal, which shall—

20 “(A) begin accruing on the date on which
21 the policyholder submits the appeal; and

22 “(B) be calculated using the rate of return
23 on a 3-year Treasury bill, as in effect on the
24 date described in subparagraph (A).

1 “(3) ALL INFORMATION NECESSARY.—For pur-
2 poses of paragraph (1), the term ‘all information
3 necessary’ includes information obtained from a
4 physical reinspection of the property or from an ex-
5 pert report, if that information is needed in order to
6 complete the review of the appeal.

7 “(4) LIABILITY PROTECTION.—No cause of ac-
8 tion shall lie or be maintained in any court against
9 the United States, and any such action shall be
10 promptly dismissed, for violation of the notification
11 requirement under paragraph (1)(B).”.

12 (2) EFFECTIVE DATE FOR NEW APPEALS PROC-
13 ESS.—Subsection (c) of section 1349 of the National
14 Flood Insurance Act of 1968, as added by para-
15 graph (1), shall take effect on the date that is 180
16 days after the date of enactment of this Act.

17 (b) REPEAL AND TRANSFER.—

18 (1) IN GENERAL.—Effective on the date that is
19 180 days after the date of enactment of this Act,
20 section 205 of the Bunning-Bereuter-Blumenauer
21 Flood Insurance Reform Act of 2004 (42 U.S.C.
22 4011 note; Public Law 108–264) is repealed, and
23 any appeals that were pending before the Adminis-
24 trator under that section on the day before that ef-
25 fective date shall be transferred to the Independent

1 Office for Policyholder Appeals established under
2 section 1349 of the National Flood Insurance Act of
3 1968 (as added by subsection (a)) for disposition
4 under such section 1349.

5 (2) TECHNICAL AND CONFORMING AMEND-
6 MENTS.—

7 (A) TABLE OF CONTENTS.—The table of
8 contents for the Bunning-Bereuter-Blumenauer
9 Flood Insurance Reform Act of 2004 (Public
10 Law 108–264; 118 Stat. 712) is amended by
11 striking the item relating to section 205.

12 (B) OTHER AMENDMENT.—Section
13 204(a)(3) of the Bunning-Bereuter-Blumenauer
14 Flood Insurance Reform Act of 2004 (42
15 U.S.C. 4011 note; Public Law 108–264) is
16 amended by striking “section 205” and insert-
17 ing “section 1349 of the National Flood Insur-
18 ance Act of 1968”.

19 (c) JUDICIAL REVIEW REFORM.—

20 (1) GOVERNMENT PROGRAM WITH INDUSTRY
21 ASSISTANCE.—Section 1341 of the National Flood
22 Insurance Act of 1968 (42 U.S.C. 4072) is amend-
23 ed—

24 (A) by striking “In the event the program”
25 and inserting the following:

1 “(a) IN GENERAL.—If the program”;

2 (B) in subsection (a), as so designated—

3 (i) by inserting “or the Administra-
4 tor’s fiscal agent” after “upon the dis-
5 allowance by the Administrator”;

6 (ii) by striking “within one year after
7 the date of mailing of notice of disallow-
8 ance or partial disallowance by the Admin-
9 istrator, may institute an action against
10 the Administrator on such claim” and in-
11 sserting “not later than 1 year after ex-
12 hausting available administrative remedies,
13 may institute an action against the insurer
14 on such claim”; and

15 (C) by adding at the end the following:

16 “(b) EXHAUSTION OF ADMINISTRATIVE REM-
17 EDIES.—For the purposes of subsection (a), a claimant
18 exhausts available administrative remedies if—

19 “(1) the claimant submits an appeal and com-
20 plies with all requirements of the appeal process es-
21 tablished under section 1349 and other applicable
22 requirements; and

23 “(2) the Administrator—

24 “(A) issues a final decision on the appeal
25 that partially or fully concurs with the insurer’s

1 disallowance or partial disallowance of the
2 claim; or

3 “(B) the Administrator makes no finding
4 regarding the appeal by the date that is 90
5 days after the date on which the Administrator
6 acknowledges receipt and acceptance of the ap-
7 peal.

8 “(c) LIMITATIONS.—

9 “(1) ISSUES RAISED ON APPEAL.—An action
10 may not be instituted under this section for any
11 issue of a claim that was not presented to the Ad-
12 ministrator on appeal.

13 “(2) WEIGHT OF ADMINISTRATOR’S DISPOSI-
14 TION.—For purposes of this section, disposition of
15 an appeal by the Administrator shall not be com-
16 petent evidence of liability or the amount of dam-
17 ages.”.

18 (2) INDUSTRY PROGRAM WITH FEDERAL FINAN-
19 CIAL ASSISTANCE.—Section 1333 of the National
20 Flood Insurance Act of 1968 (42 U.S.C. 4053) is
21 amended—

22 (A) by striking “The insurance companies
23 and other insurers” and inserting the following:

24 “(a) IN GENERAL.—The insurance companies and
25 other insurers”;

1 (B) in subsection (a), as so designated, by
2 striking “within one year after the date of mail-
3 ing of notice of disallowance or partial disallow-
4 ance of the claim, may institute an action on
5 such claim against such company or other in-
6 surer” and inserting “not later than 1 year
7 after exhausting available administrative rem-
8 edies, may institute an action on the claim
9 against the company or other insurer”; and

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

11 “(b) EXHAUSTION OF ADMINISTRATIVE REM-
12 EDIES.—For the purposes of subsection (a), a claimant
13 exhausts available administrative remedies if—

14 “(1) the claimant submits an appeal and com-
15 plies with all requirements of the appeal process es-
16 tablished under section 1349 and other applicable
17 requirements; and

18 “(2) the Administrator—

19 “(A) issues a final decision on the appeal
20 that partially or fully concurs with the insurer’s
21 disallowance or partial disallowance of the
22 claim; or

23 “(B) the Administrator makes no finding
24 regarding the appeal by the date that is 90
25 days after the date on which the Administrator

1 acknowledges receipt and acceptance of the ap-
2 peal.

3 “(c) LIMITATIONS.—

4 “(1) ISSUES RAISED ON APPEAL.—An action
5 may not be instituted under this section for any
6 issue of a claim that was not presented to the Ad-
7 ministrator on appeal.

8 “(2) WEIGHT OF ADMINISTRATOR’S DISPOSI-
9 TION.—For purposes of this section, disposition of
10 an appeal by the Administrator shall not be com-
11 petent evidence of liability or the amount of dam-
12 ages.”.

13 **SEC. 405. ACCOUNTABILITY FOR UNDERPAYMENTS AND**
14 **OVERPAYMENTS BY WRITE YOUR OWN COM-**
15 **PANIES.**

16 Section 1348 of the National Flood Insurance Act of
17 1968 (42 U.S.C. 4084) is amended by adding at the end
18 the following:

19 “(c) UNDERPAYMENTS AND OVERPAYMENTS.—

20 “(1) ACCOUNTABILITY FOR UNDERPAY-
21 MENTS.—If the Administrator determines through
22 any audit that the pool or an insurance company or
23 other private organization described in subsection
24 (a) has not adjusted a claim in accordance with ad-
25 justing standards that are in effect as of the date

1 on which the adjustment is performed and, as a re-
2 sult of that failure, has underpaid or overpaid a
3 claim of a policyholder, the penalty imposed by the
4 Administrator with respect to such a failure may not
5 be less for an overpayment of a claim than for an
6 underpayment of a claim.

7 “(2) SAFE HARBOR FOR CERTAIN OVERPAY-
8 MENTS.—The Administrator may not impose a pen-
9 alty on the pool or an insurance company or other
10 private organization described in subsection (a) for
11 overpayment of a claim of a policyholder for reasons
12 described in paragraph (1) of this subsection if—

13 “(A) the overpayment was not in bad faith;
14 and

15 “(B) the amount of the overpayment was
16 not more than 4 percent of the coverage limit
17 of the policy.

18 “(d) GAO REPORT.—Not later than 2 years after the
19 date of enactment of this subsection, and triennially there-
20 after, the Comptroller General of the United States shall
21 submit to the Committee on Banking, Housing, and
22 Urban Affairs of the Senate and the Committee on Finan-
23 cial Services of the House of Representatives a report re-
24 garding any penalties imposed by the Administrator under
25 subsection (c)(1).”.

1 **SEC. 406. POLICYHOLDERS' RIGHT TO KNOW.**

2 (a) USE.—Section 1312 of the National Flood Insur-
3 ance Act of 1968 (42 U.S.C. 4019), as amended by section
4 403(e), is amended by adding at the end the following:

5 “(h) USE OF TECHNICAL ASSISTANCE REPORTS.—
6 When adjusting claims for any damage to or loss of prop-
7 erty that is covered by flood insurance made available
8 under this title, the Administrator may rely upon technical
9 assistance reports, as defined in section 1312A(a), only
10 if the reports are final and are prepared in compliance
11 with applicable State and Federal laws regarding profes-
12 sional licensure and conduct.”.

13 (b) DISCLOSURE.—Chapter I of the National Flood
14 Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amend-
15 ed by inserting after section 1312 (42 U.S.C. 4019) the
16 following:

17 **“SEC. 1312A. DISCLOSURE OF CLAIMS DOCUMENTS AND**
18 **TECHNICAL ASSISTANCE REPORTS.**

19 “(a) DEFINITIONS.—In this section—

20 “(1) the term ‘policyholder’ means any person
21 listed as a named or additional insured on the dec-
22 larations page of a policy for flood insurance cov-
23 erage made available under this title; and

24 “(2) the term ‘technical assistance report’
25 means a report created for the purpose of furnishing
26 technical assistance to an insurance claims adjuster

1 assigned under the national flood insurance pro-
2 gram, including any report created by an engineer,
3 a surveyor, a salvor, an architect, or a certified pub-
4 lic accountant.

5 “(b) PROVISION OF COPIES.—

6 “(1) IN GENERAL.—Notwithstanding section
7 552a of title 5, United States Code, not later than
8 1 week after the date on which the Administrator re-
9 ceives a written request, or a request submitted on-
10 line, from a policyholder, and with respect to a claim
11 for loss submitted by the policyholder for any dam-
12 age to or loss of property that is covered by the pol-
13 icy, the Administrator shall provide a true, complete,
14 and unredacted copy of—

15 “(A) all documents that constitute the
16 claim file of the insurance company with respect
17 to the claim, in accordance with the memo-
18 randum issued by the Administrator on June 1,
19 2018 entitled ‘Guidance for the Release of
20 Claim File Information to Policyholders’ (WYO
21 Bulletin W-18012) (or any successor docu-
22 ment);

23 “(B) any document created by any ad-
24 juster in scoping the loss, including measure-
25 ments, photographs, and notes;

1 “(C) any estimates of damages with re-
2 spect to the claim;

3 “(D) any draft and final technical assist-
4 ance report relating to adjusting and paying or
5 denying the claim;

6 “(E) any proof of loss, supplemental proofs
7 of loss, or any equivalent notices, together with
8 supporting documentation, with respect to the
9 claim; and

10 “(F) any document relating to the denial
11 or partial denial of the claim.

12 “(2) RULE OF CONSTRUCTION.—Nothing in
13 paragraph (1) may be construed to limit the right of
14 a policyholder to receive a disclosure under section
15 552a of title 5, United States Code, or any other
16 provision of law.

17 “(c) DIRECT DISCLOSURE BY WRITE YOUR OWN
18 COMPANIES AND DIRECT SERVICING AGENTS.—

19 “(1) IN GENERAL.—A Write Your Own Com-
20 pany or direct servicing agent in possession of any
21 technical assistance report that is subject to dislo-
22 sure under subsection (b) may disclose such tech-
23 nical assistance report without further review or ap-
24 proval by the Administrator.

1 “(2) AFFIRMATIVE NOTIFICATION.—A Write
2 Your Own Company, or any other entity servicing a
3 claim under the national flood insurance program,
4 shall, not later than 30 days after the date on which
5 the company or entity receives notice of a claim, no-
6 tify the claimant that the claimant or an authorized
7 representative of the claimant may obtain, upon re-
8 quest, a copy of any claim-related document de-
9 scribed in subsection (b)(1) that pertains to the
10 claimant.”.

11 (c) TRANSMISSION OF REPORT WITHOUT AP-
12 PROVAL.—

13 (1) DEFINITION.—In this subsection, the term
14 “final engineering report” means an engineering re-
15 port, survey, or other document in connection with
16 a claim for losses covered by a policy for flood insur-
17 ance coverage made available under the National
18 Flood Insurance Act of 1968 (42 U.S.C. 4001 et
19 seq.) that—

20 (A) is based on an on-site inspection;

21 (B) contains final conclusions with respect
22 to an engineering issue or issues involved in the
23 claim; and

1 (C) is signed by the responsible in charge
2 or affixed with the seal of the responsible in
3 charge, or both.

4 (2) TRANSMISSION.—A Write Your Own Com-
5 pany or a National Flood Insurance Program direct
6 servicer may, without obtaining further review or ap-
7 proval by the Administrator, transmit to a policy-
8 holder a final engineering report in the possession of
9 the Write Your Own Company or the direct servicer
10 in connection with a claim submitted by the policy-
11 holder.

12 **SEC. 407. EXCLUSION OF SERVICE PROVIDERS FROM PAR-**
13 **TICIPATION IN THE NATIONAL FLOOD INSUR-**
14 **ANCE PROGRAM.**

15 Part C of chapter II of the National Flood Insurance
16 Act of 1968 (42 U.S.C. 4081 et seq.), as amended by sec-
17 tion 404, is amended by adding at the end the following:

18 **“SEC. 1350. EXCLUSION OF CERTAIN SERVICE PROVIDERS**
19 **FROM PARTICIPATION IN THE NATIONAL**
20 **FLOOD INSURANCE PROGRAM.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) EXCLUDED SERVICE PROVIDER.—The
23 term ‘excluded service provider’ means a service pro-
24 vider that is excluded by the Administrator under

1 this section from participation in the National Flood
2 Insurance Program.

3 “(2) SERVICE PROVIDER.—The term ‘service
4 provider’ means any attorney, accountant, appraiser,
5 adjuster, engineer, or other individual or entity that
6 directly or indirectly provides, has provided, or is
7 likely to provide services to the National Flood In-
8 surance Program.

9 “(3) SHOULD KNOW.—The term ‘should
10 know’—

11 “(A) means that a person, with respect to
12 information, acts in deliberate ignorance of, or
13 in reckless disregard of, the truth or falsity of
14 the information; and

15 “(B) does not require specific intent to de-
16 fraud.

17 “(b) EFFECT OF EXCLUSION.—

18 “(1) PROHIBITION ON MAKING PAYMENTS TO
19 EXCLUDED SERVICE PROVIDERS.—The Adminis-
20 trator may not make any payment or reimbursement
21 for any service furnished under this title by a service
22 provider excluded under this section during the pe-
23 riod of exclusion.

24 “(2) PROHIBITION ON ENTERING INTO NEW
25 CONTRACTS OR AGREEMENTS.—The Administrator

1 may not enter into or extend any contract or agree-
2 ment under this title with a service provider ex-
3 cluded under this section during the period of exclu-
4 sion.

5 “(3) EXCEPTION.—The Administrator may
6 waive the applicability of paragraph (1) or (2) to a
7 particular transaction upon making a written deter-
8 mination that the waiver is essential for the oper-
9 ation of the National Flood Insurance Program.

10 “(c) CAUSES FOR EXCLUSION.—The Administrator
11 may exclude from participation in the National Flood In-
12 surance Program a service provider—

13 “(1) that is criminally convicted or found civilly
14 liable (as applicable) for—

15 “(A) any act in connection with obtaining,
16 attempting to obtain, or performing a contract
17 or subcontract for the National Flood Insur-
18 ance Program;

19 “(B) fraud, embezzlement, theft, forgery,
20 bribery, falsification or destruction of records,
21 making false statements, tax evasion, violating
22 Federal tax laws, or receiving stolen property;

23 “(C) an act relating to fraud, corruption,
24 breach of fiduciary responsibility, or other fi-

1 nancial misconduct in connection with the busi-
2 ness of insurance;

3 “(D) any other act indicating a lack of
4 business integrity or business honesty that seri-
5 ously and directly affects the responsibility of a
6 service provider to provide services to the Na-
7 tional Flood Insurance Program; or

8 “(E) attempting, soliciting, or conspiring
9 to commit an act described in subparagraphs
10 (A) through (D);

11 “(2) that is, at the time of the exclusion under
12 this subsection, debarred, suspended, or otherwise
13 excluded from any procurement or nonprocurement
14 activity (within the meaning of section 2455 of the
15 Federal Acquisition Streamlining Act of 1994 (31
16 U.S.C. 6101 note; Public Law 103–355));

17 “(3) whose license to provide professional serv-
18 ices has been revoked, suspended, restricted, or not
19 renewed, by a State licensing authority for reasons
20 relating to the provider’s professional competence,
21 professional performance, or financial integrity;

22 “(4) that surrendered a license described in
23 paragraph (3) while a formal disciplinary proceeding
24 was pending before a State licensing authority, if the
25 proceeding concerned the provider’s professional

1 competence, professional performance, or financial
2 integrity;

3 “(5) that has provided professional services to
4 the National Flood Insurance Program—

5 “(A) at a price or rate substantially higher
6 than the provider’s customary charge for such
7 services;

8 “(B) in a manner that substantially ex-
9 ceeds the needs of the National Flood Insur-
10 ance Program; or

11 “(C) that are of a quality that fails to
12 meet professionally recognized standards for
13 those services;

14 “(6) that has violated the terms of a contract
15 or agreement related to the National Flood Insur-
16 ance Program to an extent so serious as to justify
17 exclusion under this subsection, such as—

18 “(A) willful failure to perform in accord-
19 ance with the terms of a contract or agreement
20 related to the National Flood Insurance Pro-
21 gram; or

22 “(B) a history of failure to perform, or of
23 unsatisfactory performance of, a contract or
24 agreement related to the National Flood Insur-
25 ance Program;

1 “(7) that has engaged in conduct detrimental to
2 the National Flood Insurance Program so serious or
3 compelling in nature that it affects the responsibility
4 of the service provider to provide services to the Na-
5 tional Flood Insurance Program; or

6 “(8) that, in the case of an attorney, has com-
7 mitted an act subject to disbarment under para-
8 graph (1), regardless of criminal or civil findings of
9 liability.

10 “(d) EXCLUSION OF AFFILIATES.—The Adminis-
11 trator may exclude from participation in the National
12 Flood Insurance Program a service provider that—

13 “(1) is an entity directly or indirectly owned, or
14 with a control interest of 5 percent or more held, by
15 an individual or entity excluded from participation
16 under this section; or

17 “(2)(A) directly or indirectly owns, has a con-
18 trol interest in, or is an officer or managing em-
19 ployee of an entity excluded under this section; and

20 “(B) knows or should know of the action consti-
21 tuting the basis for the entity’s exclusion.

22 “(e) NOTICE AND DECISION-MAKING.—

23 “(1) NOTICE OF PROPOSAL TO EXCLUDE.—Be-
24 fore excluding a service provider under this section,
25 the Administrator shall issue a notice of proposed

1 exclusion to the service provider, by certified mail,
2 return receipt requested, that states—

3 “(A) that the exclusion is being considered;

4 “(B) the reasons for the proposed exclu-
5 sion in terms sufficient to put the service pro-
6 vider on notice of the conduct or transaction
7 upon which it is based;

8 “(C) the cause relied upon under sub-
9 section (c) for proposing exclusion;

10 “(D) that, not later than 30 days after re-
11 ceipt of the notice, the service provider may
12 submit, in person, in writing, or through a rep-
13 resentative, information and argument in oppo-
14 sition to the proposed exclusion, including any
15 additional specific information that raises a
16 genuine dispute over the material facts;

17 “(E) the Administrator’s procedures gov-
18 erning exclusion decision-making;

19 “(F) the effect of the issuance of the no-
20 tice of proposed exclusion; and

21 “(G) the potential effect of an actual ex-
22 clusion.

23 “(2) ADMINISTRATOR’S DECISION TO EX-
24 CLUDE.—

1 “(A) EXCLUSION BASED ON CONVICTION
2 OR JUDGMENT OR WITHOUT DISPUTE OVER MA-
3 TERIAL FACTS.—

4 “(i) IN GENERAL.—In the case of a
5 proposed exclusion under this section based
6 on a criminal conviction or civil judgment,
7 or in which there is no genuine dispute
8 over material facts, the Administrator shall
9 make an exclusion decision on the basis of
10 all the information in the administrative
11 record, including any submission made by
12 the service provider.

13 “(ii) TIMING.—The Administrator
14 shall make a decision under clause (i) not
15 later than—

16 “(I) 30 days after receipt of any
17 information and argument submitted
18 by the service provider in opposition
19 to the proposed exclusion, unless the
20 Administrator extends that period for
21 good cause; or

22 “(II) if the service provider does
23 not submit any information or argu-
24 ment in opposition to the proposed ex-
25 clusion, 60 days after the date on

1 trative law judge for findings of fact;
2 and

3 “(II) may reject any findings of
4 fact made under subclause (I), in
5 whole or in part, only after specifically
6 determining them to be arbitrary and
7 capricious or clearly erroneous.

8 “(iv) CONCLUSION OF PRO-
9 CEEDINGS.—The Administrator shall make
10 a decision regarding a proposed exclusion
11 under this subparagraph after the conclu-
12 sion of the proceedings with respect to dis-
13 puted facts.

14 “(C) BURDEN OF PROOF.—In the case of
15 any proposed exclusion under this section that
16 is not based on a criminal conviction or civil
17 judgment, the cause for exclusion shall be es-
18 tablished by a preponderance of the evidence.

19 “(3) NOTICE OF EXCLUSION DECISION.—

20 “(A) NOTICE OF EXCLUSION.—If the Ad-
21 ministrator decides to exclude a service provider
22 from participation in the National Flood Insur-
23 ance Program under this section, the Adminis-
24 trator shall provide the service provider prompt

1 notice by certified mail, return receipt re-
2 quested—

3 “(i) referring to the notice of pro-
4 posed exclusion;

5 “(ii) specifying the reasons for exclu-
6 sion; and

7 “(iii) stating the period of exclusion,
8 including effective dates.

9 “(B) NOTICE OF NO EXCLUSION.—If the
10 Administrator decides not to exclude a service
11 provider from participation in the National
12 Flood Insurance Program under this section,
13 the Administrator shall promptly notify the
14 service provider, by certified mail, return re-
15 ceipt requested.

16 “(f) CONSIDERATIONS WHEN MAKING EXCLUSION
17 DETERMINATION.—A determination relating to the appro-
18 priateness of excluding a service provider under this sec-
19 tion or the length of such an exclusion is committed to
20 the Administrator’s sole discretion, but in making such a
21 determination, the Administrator shall consider—

22 “(1) the nature of any services involved and the
23 circumstances under which they were provided;

1 “(2) the degree of culpability and history of
2 prior offenses or improper conduct of the service
3 provider involved; and

4 “(3) such other matters as justice may require.

5 “(g) NOTIFICATION TO LICENSING AGENCIES OF EX-
6 CLUSION.—The Administrator shall—

7 “(1) promptly notify the appropriate agency or
8 authority having responsibility for the licensing or
9 certification of a service provider excluded under this
10 section of the fact of the exclusion, as well as the
11 reasons for the exclusion;

12 “(2) request that appropriate investigations be
13 made and sanctions invoked in accordance with ap-
14 plicable law and policy; and

15 “(3) request that the agency or authority keep
16 the Administrator fully and currently informed with
17 respect to any actions taken in response to the re-
18 quest.

19 “(h) CONSTRUCTION.—

20 “(1) DETERMINATION OF CONVICTION.—

21 “(A) IN GENERAL.—For the purposes of
22 this section, an individual or entity shall be con-
23 sidered to have been convicted of a criminal of-
24 fense if—

1 “(i) a judgment of conviction for the
2 offense has been entered against the indi-
3 vidual or entity by a Federal, State, or
4 local court;

5 “(ii) there has been a finding of guilt
6 against the individual or entity by a Fed-
7 eral, State, or local court with respect to
8 the offense;

9 “(iii) a plea of guilty or nolo
10 contendere by the individual or entity has
11 been accepted by a Federal, State, or local
12 court with respect to the offense; or

13 “(iv) the case of an individual, the in-
14 dividual has entered a first offender or
15 other program pursuant to which a judg-
16 ment of conviction for the offense has been
17 withheld.

18 “(B) EFFECT OF APPEAL OR REQUEST
19 FOR RELIEF.—A determination of conviction
20 under subparagraph (A) shall be made without
21 regard to the pendency or outcome of any ap-
22 peal (other than a judgment of acquittal based
23 on innocence) or request for relief on behalf of
24 the individual or entity.

1 “(B) payment of an approved claim shall
2 be made as soon as possible after that approval.

3 “(2) EXTENSION OF DEADLINE.—The Adminis-
4 trator shall—

5 “(A) provide that the period described in
6 paragraph (1)(A) may be extended by an addi-
7 tional period of 30 days under extraordinary
8 circumstances; and

9 “(B) by regulation—

10 “(i) establish criteria for—

11 “(I) demonstrating the extraor-
12 dinary circumstances described in sub-
13 paragraph (A); and

14 “(II) determining to which claims
15 the extraordinary circumstances de-
16 scribed in subparagraph (A) apply;
17 and

18 “(ii) provide that, if the deadline im-
19 posed under paragraph (1)(A), as extended
20 under subparagraph (A), if applicable, is
21 not satisfied the amount of the claim to
22 which the deadline relates shall be in-
23 creased with interest, which shall begin ac-
24 cruing on the date on which the initial
25 claim is filed.

1 “(3) DEADLINE TOLLED DURING CERTAIN COM-
2 MUNICATION WITH POLICYHOLDER.—The deadline
3 under paragraph (1) shall be tolled during any pe-
4 riod during which the Administrator or a Write
5 Your Own Company is trying to obtain more infor-
6 mation from a policyholder regarding a claim made
7 by the policyholder, or is otherwise working with a
8 policyholder to develop such a claim.”.

9 (b) APPLICABILITY.—The amendment made by sub-
10 section (a) shall apply to any claim for damage to or loss
11 of property that is covered by a policy for flood insurance
12 made available under the National Flood Insurance Pro-
13 gram that is made after the date of enactment of this Act.

14 **SEC. 409. NO MANIPULATION OF ENGINEER REPORTS.**

15 Section 1312 of the National Flood Insurance Act of
16 1968 (42 U.S.C. 4019), as amended by section 408(a),
17 is amended by adding at the end the following:

18 “(j) FINAL ENGINEERING REPORTS.—

19 “(1) DEFINITIONS.—In this subsection—

20 “(A) the term ‘covered claim’ means any
21 claim for losses covered by a policy for flood in-
22 surance coverage made available under this
23 title; and

24 “(B) the term ‘final engineering report’
25 means an engineering report, survey, or other

1 document in connection with a covered claim
2 that—

3 “(i) is based on an on-site inspection;

4 “(ii) contains final conclusions with
5 respect to an engineering issue or issues
6 involved in the claim; and

7 “(iii) is signed by the responsible in
8 charge or affixed with the seal of the re-
9 sponsible in charge, or both.

10 “(2) PROHIBITION ON MANIPULATION AND
11 TRANSMISSION TO THIRD PARTIES.—The Adminis-
12 trator shall require that, in the case of any on-site
13 inspection of a property by an engineer for the pur-
14 pose of assessing any covered claim, the final engi-
15 neering report—

16 “(A) may not—

17 “(i) include alterations by, or at the
18 request of, anyone other than the person
19 responsible for the report; or

20 “(ii) be transmitted to any other per-
21 son before the final engineering report is
22 transmitted to the policyholder who sub-
23 mitted the covered claim; and

24 “(B) shall include a certification, signed by
25 the person responsible for the final engineering

1 report, that the final engineering report does
2 not contain any alterations described in sub-
3 paragraph (A).”.

4 **SEC. 410. IMPROVED TRAINING OF FLOODPLAIN MAN-**
5 **AGERS, AGENTS, AND ADJUSTERS.**

6 (a) LOCAL FLOODPLAIN MANAGERS.—Each regional
7 office of the Federal Emergency Management Agency
8 shall—

9 (1) provide training to local floodplain man-
10 agers, agents, and claim adjusters in the region re-
11 garding the responsibilities and procedures of local
12 floodplain managers with respect to conducting sub-
13 stantial damage and substantial improvement deter-
14 minations;

15 (2) work with applicable State agencies to pro-
16 vide the training described in paragraph (1); and

17 (3) verify that the individuals described in para-
18 graph (1) are completing the training described in
19 that paragraph.

20 (b) MAJOR DISASTER TRAINING.—After a flood that
21 is declared a major disaster by the President under section
22 401 of the Robert T. Stafford Disaster Relief and Emer-
23 gency Assistance Act (42 U.S.C. 5170), the Administrator
24 shall, if determined appropriate, provide—

1 (1) refresher training to prepare insurance
2 claims adjusters for the unique circumstances of the
3 major disaster; and

4 (2) any briefings that are necessary to prepare
5 and inform floodplain managers, agents, and claim
6 adjusters regarding any atypical circumstances and
7 issues arising from the natural disaster.

8 **SEC. 411. FLOOD INSURANCE CONTINUING EDUCATION**
9 **AND TRAINING.**

10 (a) IN GENERAL.—The Bunning-Bereuter-Blu-
11 menauer Flood Insurance Reform Act of 2004 (Public
12 Law 108–264; 118 Stat. 712) is amended—

13 (1) in section 201 (42 U.S.C. 4011 note)—

14 (A) in paragraph (1), by striking “Director
15 of the” and inserting “Administrator of the”;
16 and

17 (B) in paragraph (2), by inserting “4001”
18 after “U.S.C.”; and

19 (2) by striking section 207 (42 U.S.C. 4011
20 note) and inserting the following:

21 **“SEC. 207. CONTINUING EDUCATION REQUIREMENTS FOR**
22 **INSURANCE AGENTS.**

23 “(a) IN GENERAL.—The Director shall require each
24 insurance agent who sells flood insurance policies under

1 the Program to, once every 2 years, complete a 3-hour
2 continuing education course that—

3 “(1) subject to subsection (c), is approved by
4 the insurance commissioner of the State in which
5 the agent is a legal resident; and

6 “(2) focuses on issues with respect to the Pro-
7 gram.

8 “(b) FAILURE TO COMPLETE COURSE.—If an insur-
9 ance agent who sells flood insurance policies does not com-
10 plete a continuing education course required under sub-
11 section (a), the agent, until the date on which the agent
12 completes the course in accordance with the requirements
13 of this section, may not—

14 “(1) sell flood insurance policies; or

15 “(2) perform any duties with respect to the
16 Program.

17 “(c) AGENTS LICENSED IN MULTIPLE STATES.—

18 “(1) IN GENERAL.—If an insurance agent who
19 sells flood insurance policies is licensed to sell insur-
20 ance in more than 1 State—

21 “(A) the agent shall submit proof of com-
22 pletion of a continuing education course re-
23 quired under subsection (a) to the insurance
24 commissioner of each State in which the agent
25 is licensed; and

1 “(B) each insurance commissioner to
2 whom an insurance agent submits a proof of
3 completion under subparagraph (A) may deter-
4 mine whether the course to which that proof of
5 completion relates meets the minimum stand-
6 ards established by that insurance commis-
7 sioner.

8 “(2) EFFECT OF DENIAL.—If an insurance
9 commissioner of a State (referred to in this para-
10 graph as the ‘rejecting commissioner’) determines
11 under paragraph (1)(B) that a continuing education
12 course taken in another State by an insurance agent
13 who sells flood insurance policies does not meet the
14 minimum standards established by the rejecting
15 commissioner, the insurance agent may not take any
16 action described in paragraph (1) or (2) of sub-
17 section (b) until the agent satisfies the minimum re-
18 quirements established by the rejecting commis-
19 sioner.

20 “(d) RULE OF CONSTRUCTION.—Any reference in
21 this section to an insurance commissioner of a State shall
22 be construed as a reference to an equivalent official with
23 respect to any State in which there is no official who has
24 the title of insurance commissioner.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 The table of contents for the Bunning-Bereuter-Blu-
3 menauer Flood Insurance Reform Act of 2004 (Public
4 Law 108–264; 118 Stat. 712) is amended by striking the
5 item relating to section 207 and inserting the following:

“Sec. 207. Continuing education requirements for insurance agents.”.

6 **SEC. 412. SHIFTING OF ATTORNEY FEES AND OTHER EX-**
7 **PENSES.**

8 Section 1341 of the National Flood Insurance Act of
9 1968 (42 U.S.C. 4072), as amended by section 405(c),
10 is amended by adding at the end the following:

11 “(d) ATTORNEY FEES AND OTHER EXPENSES.—A
12 Write Your Own Company against which an action is in-
13 stituted under this subsection shall be considered an agen-
14 cy of the United States for the purposes of section 2412(d)
15 of title 28, United States Code.”.

16 **SEC. 413. RESTRICTION ON DEFENSE OF CLAIMS LITIGA-**
17 **TION.**

18 (a) RESTRICTION ON DEFENSE OF CLAIMS LITIGA-
19 TION.—

20 (1) IN GENERAL.—Section 1345 of the Na-
21 tional Flood Insurance Act of 1968 (42 U.S.C.
22 4081) is amended by adding at the end the fol-
23 lowing:

24 “(f) RESTRICTION ON DEFENSE OF CLAIMS LITIGA-
25 TION.—The Administrator may not enter into any con-

1 tract, agreement, or other appropriate arrangement under
2 subsection (a) that delegates the authority of the Adminis-
3 trator to defend actions instituted under section 1341.”.

4 (2) IMPLEMENTATION.—Notwithstanding any
5 other provision of law, the Administrator may imple-
6 ment the amendment made by paragraph (1) by
7 adopting 1 or more standard endorsements to the
8 Standard Flood Insurance Policy by publication of
9 those standards in the Federal Register, or by com-
10 parable means.

11 (3) EFFECTIVE DATE.—The amendment made
12 by paragraph (1) shall take effect on the date that
13 is 1 year after the date of enactment of this Act.

14 (4) TRANSITION.—Notwithstanding the amend-
15 ment made by paragraph (1), in the case of an ac-
16 tion instituted under subsection (b) of section 1341
17 of the National Flood Insurance Act of 1968 (42
18 U.S.C. 4072), as added by section 407, before the
19 effective date under paragraph (3) of this sub-
20 section, the Administrator may authorize a Write
21 Your Own Company to continue to defend the action
22 after that effective date.

23 (b) APPOINTMENT OF TEMPORARY PERSONNEL.—

24 (1) IN GENERAL.—Section 1341 of the Na-
25 tional Flood Insurance Act of 1968 (42 U.S.C.

1 4072), as amended by section 412, is amended by
2 adding at the end the following:

3 “(e) APPOINTMENT OF TEMPORARY PERSONNEL.—
4 The Administrator may appoint and fix the compensation
5 of such temporary personnel as may be necessary to sup-
6 port the defense of an action instituted under this section,
7 without regard to the provisions of title 5, United States
8 Code, governing appointments in the competitive service.”.

9 (2) FUNDING.—Section 1310(d)(1) of the Na-
10 tional Flood Insurance Act of 1968 (42 U.S.C.
11 4017(d)(1)) is amended by inserting after “losses,”
12 the following: “including the costs associated with
13 the hiring of temporary personnel under section
14 1341(e),”.

15 **SEC. 414. REFORMING USE OF PROOF OF LOSS FORMS.**

16 (a) IN GENERAL.—Section 1312 of the National
17 Flood Insurance Act of 1968 (42 U.S.C. 4019), as amend-
18 ed by section 409, is amended by adding at the end the
19 following:

20 “(k) NO CONDITION OF PAYMENT OF UNDISPUTED
21 CLAIM ON PROOF OF LOSS.—

22 “(1) IN GENERAL.—Notwithstanding any other
23 provision of law, or any term or condition of a
24 standard flood insurance policy, the Administrator—

1 “(A) may not condition payment of an un-
2 disputed claim based on the submission of a
3 proof of loss; and

4 “(B) may instead accept a report sub-
5 mitted by the insurance adjuster the Adminis-
6 trator hires to investigate the claim, if the re-
7 port is signed by the policyholder, unless the
8 Administrator determines that conditions make
9 signature impracticable.

10 “(2) REFUSAL TO ACCEPT AMOUNT PAID.—
11 Upon the refusal of a policyholder to accept the
12 amount paid under paragraph (1), the Administrator
13 may require the policyholder to submit a proof of
14 loss within a timeframe determined by the Adminis-
15 trator.”.

16 (b) GUIDANCE TO DEFENSE ATTORNEYS.—The Ad-
17 ministrators shall issue guidance for best practices for at-
18 torneys defending actions instituted under section 1333
19 or 1341, as applicable, of the National Flood Insurance
20 Act of 1968 (42 U.S.C. 4053, 4072) (as amended by sec-
21 tion 404(c)) relating to how to respond to unintentional
22 errors in a proof of loss submitted by a policyholder under
23 the National Flood Insurance Policy.

1 **SEC. 415. AGENT ADVISORY COUNCIL.**

2 Part C of chapter II of the National Flood Insurance
3 Act of 1968 (42 U.S.C. 4081 et seq.), as amended by sec-
4 tion 407, is amended by adding at the end the following:

5 **“SEC. 1351. AGENT ADVISORY COUNCIL.**

6 “(a) ESTABLISHMENT.—There is established a coun-
7 cil to be known as the Agent Advisory Council (in this
8 section referred to as the ‘Council’).

9 “(b) MEMBERSHIP.—

10 “(1) MEMBERS.—The Council shall consist of—

11 “(A) the Administrator, or the designee of
12 the Administrator; and

13 “(B) 11 additional members appointed by
14 the Administrator or the designee of the Ad-
15 ministrator, of whom—

16 “(i) 1 shall be a member of the Na-
17 tional Association of Insurance Commis-
18 sioners;

19 “(ii) 2 shall be members of the Inde-
20 pendent Insurance Agents and Brokers of
21 America;

22 “(iii) 1 shall be a member of United
23 Policyholders;

24 “(iv) 1 shall be a representative of the
25 Emergency Management Institute of the
26 Federal Emergency Management Agency;

1 “(v) 1 shall be a representative of the
2 Office of the Flood Insurance Advocate of
3 the Federal Emergency Management
4 Agency;

5 “(vi) 2 shall be members of the Na-
6 tional Association of Professional Insur-
7 ance Agents;

8 “(vii) 1 shall be a representative of a
9 recognized professional association or orga-
10 nization representing homebuilders or land
11 developers;

12 “(viii) 1 shall be a representative of a
13 recognized professional association or orga-
14 nization representing the real estate indus-
15 try; and

16 “(ix) 1 of whom shall be a representa-
17 tive of a recognized consumer protection
18 group.

19 “(2) QUALIFICATIONS.—

20 “(A) IN GENERAL.—Each member of the
21 Council shall have experience with—

22 “(i) contacting policyholders under the
23 national flood insurance program, includ-
24 ing with respect to applying for flood in-
25 surance and processing a claim for damage

1 to or loss of property that is covered by
2 flood insurance; and

3 “(ii) riverine and coastal flood insur-
4 ance policies.

5 “(B) CONSIDERATIONS.—The Adminis-
6 trator shall, to the maximum extent practicable,
7 ensure that the membership of the Council has
8 a balance of governmental and private mem-
9 bers, and includes geographic diversity.

10 “(C) CONFLICTS OF INTEREST.—A mem-
11 ber of the Council—

12 “(i) may not, while serving on the
13 Council, be employed or retained—

14 “(I) by a Federal Emergency
15 Management Agency contractor or
16 consultant; or

17 “(II) by a nongovernmental enti-
18 ty that was awarded a Federal grant
19 during the 5-year period preceding the
20 date on which the member was ap-
21 pointed to the Council; and

22 “(ii) may not have been employed by
23 a Federal Emergency Management Agency
24 contractor or consultant during the 5-year

1 period preceding the date on which the
2 member was appointed to the Council.

3 “(3) CONSULTATION.—In appointing a member
4 of the Council from an entity described in clauses (i)
5 through (viii) of paragraph (1)(B), the Adminis-
6 trator or the designee of the Administrator, as appli-
7 cable, shall consult with the entity.

8 “(4) CHAIRPERSON.—The members of the
9 Council shall elect 1 member to serve as the chair-
10 person of the Council (in this section referred to as
11 the ‘Chairperson’).

12 “(c) DUTIES.—The Council shall—

13 “(1) provide recommendations to the Adminis-
14 trator on—

15 “(A) improving the customer experience
16 for policyholders under the national flood insur-
17 ance program;

18 “(B) training insurance agents that issue
19 flood insurance policies; and

20 “(C) improving the processing and han-
21 dling of claims for damage to or loss of prop-
22 erty that is covered by flood insurance; and

23 “(2) submit to the Administrator an annual re-
24 port that includes—

1 “(A) a description of the activities of the
2 Council; and

3 “(B) a summary of recommendations made
4 by the Council to the Administrator.

5 “(d) COMPENSATION.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), a member of the Council shall receive no
8 additional compensation for serving on the Council.

9 “(2) TRAVEL EXPENSES.—Each member of the
10 Council may be allowed travel expenses, including
11 per diem in lieu of subsistence, in accordance with
12 sections 5702 and 5703 of title 5, United States
13 Code, while away from their homes or regular places
14 of business in performance of services for the Coun-
15 cil.

16 “(e) MEETINGS AND ACTIONS.—

17 “(1) MEETINGS.—

18 “(A) IN GENERAL.—The Council shall
19 meet not less frequently than twice each year at
20 the request of the Chairperson or a majority of
21 the members of the Council.

22 “(B) INITIAL MEETING.—The Adminis-
23 trator, or a designee of the Administrator, shall
24 request and coordinate the initial meeting of
25 the Council.

1 “(2) ACTION BY MAJORITY VOTE.—The Council
2 may take action by a vote of the majority of the
3 members.

4 “(f) OFFICERS.—The Chairperson may appoint offi-
5 cers to assist in carrying out the duties of the Council
6 under subsection (c).

7 “(g) STAFF.—Upon the request of the Chairperson,
8 the Administrator may detail, on a nonreimbursable basis,
9 personnel of the Office of the Flood Insurance Advocate
10 of the Federal Emergency Management Agency to assist
11 the Council in carrying out the duties of the Council.

12 “(h) POWERS.—In carrying out this section, the
13 Council may hold hearings, receive evidence and assist-
14 ance, provide information, and conduct research as the
15 Council considers appropriate.

16 “(i) REPORT TO CONGRESS AND OMB.—The Admin-
17 istrator shall submit to the Committee on Banking, Hous-
18 ing, and Urban Affairs of the Senate, the Committee on
19 Financial Services of the House of Representatives, and
20 the Director of the Office of Management and Budget an
21 annual report on—

22 “(1) the recommendations made by the Council;
23 and

24 “(2) any recommendations made by the Council
25 during the year covered by the report that, as of the

1 date on which the report is submitted, have been de-
2 ferred or not acted upon, together with an explana-
3 tory statement with respect to those recommenda-
4 tions.

5 “(j) APPLICABILITY OF THE FEDERAL ADVISORY
6 COMMITTEE ACT.—Section 14 of the Federal Advisory
7 Committee Act (5 U.S.C. App.) shall not apply to the
8 Council.”.

9 **SEC. 416. DISCLOSURE OF FLOOD RISK INFORMATION**
10 **PRIOR TO TRANSFER OF PROPERTY.**

11 (a) IN GENERAL.—Chapter I of the National Flood
12 Insurance Act of 1968 (42 U.S.C. 4011 et seq.), as
13 amended by section 207, is amended by adding at the end
14 the following:

15 **“SEC. 1328. DISCLOSURE OF FLOOD RISK INFORMATION**
16 **PRIOR TO TRANSFER OF PROPERTY.**

17 “(a) IN GENERAL.—After September 30, 2022, no
18 new flood insurance coverage may be provided under this
19 title for any real property unless an appropriate public
20 body has imposed, by statute or regulation, a duty on any
21 seller or lessor of improved real estate to provide to any
22 purchaser or lessee (with respect to a lease for a term that
23 is not shorter than 30 days) of the property a property
24 flood hazard disclosure that the Administrator has deter-
25 mined meets the requirements of subsection (b).

1 “(b) DISCLOSURE REQUIREMENTS.—

2 “(1) REQUIREMENTS FOR SELLERS.—A prop-
3 erty flood hazard disclosure for the sale of a prop-
4 erty shall meet the requirements of this subsection
5 only if the disclosure—

6 “(A) is made in writing;

7 “(B) discloses any actual knowledge of the
8 seller of any—

9 “(i) prior physical damage caused by
10 flood to a structure located on the prop-
11 erty;

12 “(ii) prior insurance claim for a loss
13 covered under the national flood insurance
14 program or private flood insurance with re-
15 spect to the property;

16 “(iii) previous notification regarding
17 the designation of the property as a repet-
18 itive loss structure or severe repetitive loss
19 structure (as defined in section 1366(h));
20 and

21 “(iv) Federal legal obligation to obtain
22 and maintain flood insurance running with
23 the property;

1 “(C) discloses to the maximum extent fea-
2 sible, in a manner to be determined by the Ad-
3 ministrators—

4 “(i) the relative flood risk associated
5 with the property as indicated in flood haz-
6 ard data maintained by the Administrator
7 under this title; and

8 “(ii) the availability of and approxi-
9 mate cost of flood insurance for the prop-
10 erty; and

11 “(D) is delivered by, or on behalf of, the
12 seller to the purchaser before the purchaser be-
13 comes obligated under any contract to purchase
14 the property.

15 “(2) REQUIREMENTS FOR LESSORS.—A prop-
16 erty flood hazard disclosure for a rental property
17 with a lease for a term that is not shorter than 30
18 days shall meet the requirements of this subsection
19 only if the disclosure—

20 “(A) is made in writing;

21 “(B) discloses any actual knowledge of the
22 lessor—

23 “(i) of any Federal legal obligation to
24 obtain and maintain flood insurance run-
25 ning with the property;

1 “(ii) regarding any prior physical
2 damage caused by flood with respect to the
3 unit being leased; and

4 “(iii) of the availability of coverage
5 under this title for contents located in a
6 structure on the property; and

7 “(C) is delivered by, or on behalf of, the
8 lessor to the lessee before the lessee becomes
9 obligated under any contract to lease the prop-
10 erty.

11 “(3) RULE OF CONSTRUCTION.—Nothing in
12 this section may be construed as preventing a State
13 from adopting disclosure requirements in addition to
14 the requirements of this section.”.

15 (b) AVAILABILITY OF FLOOD INSURANCE COV-
16 ERAGE.—Section 1305(c) of the National Flood Insurance
17 Act of 1968 (42 U.S.C. 4012(c)) is amended—

18 (1) in paragraph (1), by striking “, and” at the
19 end and inserting a semicolon;

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

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

23 “(3) given satisfactory assurance that, not later
24 than October 1, 2024, property flood hazard disclo-
25 sure requirements will have been adopted for the

- 1 area (or subdivision) that meet the requirements of
- 2 section 1328.”.