

any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

“(i) **POWERS.**—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

“(j) **TERMINATION.**—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b)(1).”

#### § 4012. Scope of program and priorities

##### (a) Priority for insurance for certain residential and church properties and business concerns

In carrying out the flood insurance program the Director shall afford a priority to making flood insurance available to cover residential properties which are designed for the occupancy of from one to four families, church properties, and business properties which are owned or leased and operated by small business concerns.

##### (b) Availability of insurance for other properties

If on the basis of—

- (1) studies and investigations undertaken and carried out and information received or exchanged under section 4014 of this title, and
- (2) such other information as may be necessary,

the Director determines that it would be feasible to extend the flood insurance program to cover other properties, he may take such action under this chapter as from time to time may be necessary in order to make flood insurance available to cover, on such basis as may be feasible, any types and classes of—

- (A) other residential properties,
- (B) other business properties,
- (C) agricultural properties,
- (D) properties occupied by private nonprofit organizations, and
- (E) properties owned by State and local governments and agencies thereof,

and any such extensions of the program to any types and classes of these properties shall from time to time be prescribed in regulations.

##### (c) Availability of insurance in States or areas evidencing positive interest in securing insurance and assuring adoption of adequate land use and control measures

The Director shall make flood insurance available in only those States or areas (or subdivisions thereof) which he has determined have—

- (1) evidenced a positive interest in securing flood insurance coverage under the flood insurance program, and
- (2) given satisfactory assurance that by December 31, 1971, adequate land use and control measures will have been adopted for the State or area (or subdivision) which are consistent with the comprehensive criteria for land management and use developed under section 4102 of this title, and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling flood elevations is available.

(Pub. L. 90-448, title XIII, §1305, Aug. 1, 1968, 82 Stat. 574; Pub. L. 91-152, title IV, §410(a), Dec. 24,

1969, 83 Stat. 397; Pub. L. 92-213, §2(c)(1), Dec. 22, 1971, 85 Stat. 775; Pub. L. 98-181, title IV, §451(d)(1), Nov. 30, 1983, 97 Stat. 1229.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original a reference to “this title” meaning title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

#### AMENDMENTS

1983—Pub. L. 98-181 substituted “Director” for “Secretary” wherever appearing.

1971—Subsec. (a). Pub. L. 92-213 inserted reference to church properties.

1969—Subsec. (c)(2). Pub. L. 91-152 substituted “December 31, 1971, adequate” for “June 30, 1970, permanent”.

#### TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 4012a. Flood insurance purchase and compliance requirements and escrow accounts

##### (a) Amount and term of coverage

After the expiration of sixty days following December 31, 1973, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Director as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], unless the building or mobile home and any personal property to which such financial assistance relates is covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan. The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.

##### (b) Requirement for mortgage loans

###### (1) Regulated lending institutions

Each Federal entity for lending regulation (after consultation and coordination with the

Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974 [12 U.S.C. 3301 et seq.] shall by regulation direct regulated lending institutions not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available under the Act with respect to the particular type of property, whichever is less.

**(2) Federal agency lenders**

A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1). Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1).

**(3) Government-sponsored enterprises for housing**

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

- (A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Director as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, and
- (B) purchased by such entity,

the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1).

**(4) Applicability**

**(A) Existing coverage**

Except as provided in subparagraph (B), paragraph (1) shall apply on September 23, 1994.

**(B) New coverage**

Paragraphs (2) and (3) shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on September 23,

1994. Paragraph (1) shall apply with respect to any loan made, increased, extended, or renewed by any lender supervised by the Farm Credit Administration only after the expiration of the period under this subparagraph.

**(C) Continued effect of regulations**

Notwithstanding any other provision of this subsection, the regulations to carry out paragraph (1), as in effect immediately before September 23, 1994, shall continue to apply until the regulations issued to carry out paragraph (1) as amended by section 522(a) of Public Law 103-325 take effect.

**(c) Exceptions to purchase requirements**

**(1) State-owned property**

Notwithstanding the other provisions of this section, flood insurance shall not be required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the Director. The Director shall publish and periodically revise the list of States to which this subsection applies.

**(2) Small loans**

Notwithstanding any other provision of this section, subsections (a) and (b) of this section shall not apply to any loan having—

- (A) an original outstanding principal balance of \$5,000 or less; and
- (B) a repayment term of 1 year or less.

**(d) Escrow of flood insurance payments**

**(1) Regulated lending institutions**

Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.] for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed.

**(2) Federal agency lenders**

Each Federal agency lender shall by regulation require and provide for escrow and payment of any flood insurance premiums and fees relating to residential improved real estate and mobile homes securing loans made by the Federal agency lender under the circumstances and in the manner provided under paragraph (1). Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

**(3) Applicability of RESPA**

Escrow accounts established pursuant to this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974 [12 U.S.C. 2609].

**(4) "Residential improved real estate" defined**

For purposes of this subsection, the term "residential improved real estate" means improved real estate for which the improvement is a residential building.

**(5) Applicability**

This subsection shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on September 23, 1994.

**(e) Placement of flood insurance by lender****(1) Notification to borrower of lack of coverage**

If, at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the Director (at the time of the origination of the loan or at any time during the term of the loan) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.], the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to paragraph (1), (2), or (3) of subsection (b) of this section, the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the borrower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1) of this section, for the term of the loan.

**(2) Purchase of coverage on behalf of borrower**

If the borrower fails to purchase such flood insurance within 45 days after notification under paragraph (1), the lender or servicer for the loan shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the insurance.

**(3) Review of determination regarding required purchase****(A) In general**

The borrower and lender for a loan secured by improved real estate or a mobile home may jointly request the Director to review a determination of whether the building or mobile home is located in an area having special flood hazards. Such request shall be supported by technical information relating to the improved real estate or mobile home. Not later than 45 days after the Director receives the request, the Director shall review the determination and provide to the borrower and the lender with a letter stating whether or not the building or mobile home is in an area having special flood hazards. The determination of the Director shall be final.

**(B) Effect of determination**

Any person to whom a borrower provides a letter issued by the Director pursuant to subparagraph (A), stating that the building or mobile home securing the loan of the borrower is not in an area having special flood hazards, shall have no obligation under this title<sup>1</sup> to require the purchase of flood insurance for such building or mobile home during the period determined by the Director, which shall be specified in the letter and shall begin on the date on which such letter is provided.

**(C) Effect of failure to respond**

If a request under subparagraph (A) is made in connection with the origination of a loan and the Director fails to provide a letter under subparagraph (A) before the later of (i) the expiration of the 45-day period under such subparagraph, or (ii) the closing of the loan, no person shall have an obligation under this title<sup>1</sup> to require the purchase of flood insurance for the building or mobile home securing the loan until such letter is provided.

**(4) Applicability**

This subsection shall apply to all loans outstanding on or after September 23, 1994.

**(f) Civil monetary penalties for failure to require flood insurance or notify****(1) Civil monetary penalties against regulated lenders**

Any regulated lending institution that is found to have a pattern or practice of committing violations under paragraph (2) shall be assessed a civil penalty by the appropriate Federal entity for lending regulation in the amount provided under paragraph (5).

**(2) Lender violations**

The violations referred to in paragraph (1) shall include—

(A) making, increasing, extending, or renewing loans in violation of—

(i) the regulations issued pursuant to subsection (b) of this section;

(ii) the escrow requirements under subsection (d) of this section; or

(iii) the notice requirements under section 1364 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104a]; or

(B) failure to provide notice or purchase flood insurance coverage in violation of subsection (e) of this section.

**(3) Civil monetary penalties against GSE's****(A) In general**

If the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation is found by the Director of the Federal Housing Finance Agency to have a pattern or practice of purchasing loans in violation of the procedures established pursuant to subsection (b)(3) of this section, the Director of such Office<sup>2</sup> shall assess a civil

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be "Agency".

penalty against such enterprise in the amount provided under paragraph (5) of this subsection.

**(B) “Enterprise” defined**

For purposes of this subsection, the term “enterprise” means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

**(4) Notice and hearing**

A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

**(5) Amount**

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

**(6) Lender compliance**

Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b) of this section.

**(7) Effect of transfer on liability**

Any sale or other transfer of a loan by a regulated lending institution that has committed a violation under paragraph (1), that occurs subsequent to the violation, shall not affect the liability of the transferring lender with respect to any penalty under this subsection. A lender shall not be liable for any violations relating to a loan committed by another regulated lending institution that previously held the loan.

**(8) Deposit of penalties**

Any penalties collected under this subsection shall be paid into the National Flood Mitigation Fund under section 1367 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104d].

**(9) Additional penalties**

Any penalty under this subsection shall be in addition to any civil remedy or criminal penalty otherwise available.

**(10) Statute of limitations**

No penalty may be imposed under this subsection after the expiration of the 4-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under this subsection.

**(g) Other actions to remedy pattern of non-compliance**

**(1) Authority of Federal entities for lending regulation**

A Federal entity for lending regulation may require a regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution

complies with the requirements of the national flood insurance program if the Federal agency for lending regulation makes a determination under paragraph (2) regarding the regulated lending institution.

**(2) Determination of violations**

A determination under this paragraph shall be a finding that—

(A) the regulated lending institution has engaged in a pattern and practice of non-compliance in violation of the regulations issued pursuant to subsection (b), (d), or (e) of this section or the notice requirements under section 1364 of the National Flood Insurance Act of 1968 [42 U.S.C. 4104a]; and

(B) the regulated lending institution has not demonstrated measurable improvement in compliance despite the assessment of civil monetary penalties under subsection (f) of this section.

**(h) Fee for determining location**

Notwithstanding any other Federal or State law, any person who makes a loan secured by improved real estate or a mobile home or any servicer for such a loan may charge a reasonable fee for the costs of determining whether the building or mobile home securing the loan is located in an area having special flood hazards, but only in accordance with the following requirements:

**(1) Borrower fee**

The borrower under such a loan may be charged the fee, but only if the determination—

(A) is made pursuant to the making, increasing, extending, or renewing of the loan that is initiated by the borrower;

(B) is made pursuant to a revision or updating under section 1360(f)<sup>3</sup> [42 U.S.C. 4101(f)] of the floodplain areas and flood-risk zones or publication of a notice or compendia under subsection (h) or (i) of section 1360<sup>3</sup> [42 U.S.C. 4101(h), (i)] that affects the area in which the improved real estate or mobile home securing the loan is located or that, in the determination of the Director, may reasonably be considered to require a determination under this subsection; or

(C) results in the purchase of flood insurance coverage pursuant to the requirement under subsection (e)(2) of this section.

**(2) Purchaser or transferee fee**

The purchaser or transferee of such a loan may be charged the fee in the case of sale or transfer of the loan.

(Pub. L. 93-234, title I, §102, Dec. 31, 1973, 87 Stat. 978; Pub. L. 98-181, title IV, §451(e)(1), Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103-325, title V, §§522-526, 531, 582(c), Sept. 23, 1994, 108 Stat. 2257-2262, 2267, 2287; Pub. L. 110-289, div. A, title I, §1161(e), July 30, 2008, 122 Stat. 2780.)

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsecs. (a), (b), (d)(1), and (e)(1), and the Act, re-

<sup>3</sup>So in original. Probably should be followed by “of the National Flood Insurance Act of 1968”.

ferred to in subsec. (b), is title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to this chapter (§ 4001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Federal Financial Institutions Examination Council Act of 1974, referred to in subsec. (b)(1), probably means the Federal Financial Institutions Examination Council Act of 1978, Pub. L. 95-630, title X, Nov. 10, 1978, 92 Stat. 3694, as amended, which is classified principally to chapter 34 (§ 3301 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of Title 12 and Tables.

Section 522(a) of Public Law 103-325, referred to in subsec. (b)(4)(C), was in original "section 522(a) of such Act", which generally amended subsec. (b) of this section.

This title, referred to in subsec. (e)(3)(B), (C), means title I of Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 977, which enacted this section and section 4104 of this title and amended sections 4001, 4013 to 4016, 4026, 4054, 4056, and 4121 of this title.

#### CODIFICATION

Section was enacted as part of Flood Disaster Protection Act of 1973, and not as part of National Flood Insurance Act of 1968 which comprises this chapter.

#### AMENDMENTS

2008—Subsec. (f)(3)(A). Pub. L. 110-289 substituted "Director of the Federal Housing Finance Agency" for "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development".

1994—Pub. L. 103-325, § 531, substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 103-325, § 582(c), struck out ", during the anticipated economic or useful life of the project," before "covered by flood insurance" and inserted at end "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property."

Subsec. (b). Pub. L. 103-325, § 522(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after the expiration of sixty days following December 31, 1973, any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less."

Subsec. (c). Pub. L. 103-325, § 522(b), inserted heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsecs. (d) to (h). Pub. L. 103-325, §§ 523-526, added subsecs. (d) to (h).

1983—Pub. L. 98-181 substituted "Director" for "Secretary" wherever appearing.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 582(c) of Pub. L. 103-325 applicable to disasters declared after Sept. 23, 1994, see section 5154a(e) of this title.

#### TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of

the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 4013. Nature and limitation of insurance coverage

##### (a) Regulations respecting general terms and conditions of insurability

The Director shall from time to time, after consultation with the advisory committee authorized under section 4025 of this title, appropriate representatives of the pool formed or otherwise created under section 4051 of this title, and appropriate representatives of the insurance authorities of the respective States, provide by regulation for general terms and conditions of insurability which shall be applicable to properties eligible for flood insurance coverage under section 4012 of this title, including—

- (1) the types, classes, and locations of any such properties which shall be eligible for flood insurance;
- (2) the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;
- (3) the classification, limitation, and rejection of any risks which may be advisable;
- (4) appropriate minimum premiums;
- (5) appropriate loss-deductibles; and
- (6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the purposes of this chapter.

##### (b) Regulations respecting amount of coverage

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

- (1) any flood insurance coverage based on chargeable premium rates under section 4015 of this title which are less than the estimated premium rates under section 4014(a)(1) of this title shall not exceed—
  - (A) in the case of residential properties—
    - (i) \$35,000 aggregate liability for any single-family dwelling, and \$100,000 for any residential structure containing more than one dwelling unit,
    - (ii) \$10,000 aggregate liability per dwelling unit for any contents related to such unit, and
    - (iii) in the States of Alaska and Hawaii, and in the Virgin Islands and Guam; the limits provided in clause (i) of this sentence shall be: \$50,000 aggregate liability for any single-family dwelling, and \$150,000 for any residential structure containing more than one dwelling unit;
  - (B) in the case of business properties which are owned or leased and operated by small