

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.

§ 4104d. National Flood Mitigation Fund

(a) Establishment and availability

The Director shall establish in the Treasury of the United States a fund to be known as the National Flood Mitigation Fund, which shall be credited with amounts described in subsection (b) of this section and shall be available, to the extent provided in appropriation Acts, for providing assistance under section 4104c of this title.

(b) Credits

The National Flood Mitigation Fund shall be credited with—

- (1) in each fiscal year, amounts from the National Flood Insurance Fund not exceeding \$40,000,000, to remain available until expended;
- (2) any penalties collected under section 4012a(f) of this title; and
- (3) any amounts recaptured under section 4104c(i) of this title.

(c) Administrative expenses

The Director may use not more than 5 percent of amounts made available under subsection (b) of this section to cover salaries, expenses, and other administrative costs incurred by the Director to make grants and provide assistance under sections 4104c and 4030 of this title.

(d) Investment

If the Director determines that the amounts in the National Flood Mitigation Fund are in excess of amounts needed under subsection (a) of this section, the Director may invest any excess amounts the Director determines advisable in interest-bearing obligations issued or guaranteed by the United States.

(e) Report

The Director shall submit a report to the Congress not later than the expiration of the 1-year period beginning on September 23, 1994, and not less than once during each successive 2-year period thereafter. The report shall describe the status of the Fund and any activities carried out with amounts from the Fund.

(Pub. L. 90-448, title XIII, § 1367, as added Pub. L. 103-325, title V, § 554(a), Sept. 23, 1994, 108 Stat. 2273; amended Pub. L. 108-264, title I, § 103(d), June 30, 2004, 118 Stat. 721.)

CODIFICATION

September 23, 1994, referred to in subsec. (e), was in the original “the date of enactment of this Act”, which was translated as meaning the date of enactment of Pub. L. 103-325, which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108-264, § 103(d)(1), added par. (1) and struck out former par. (1) which read as follows: “amounts from the National Flood Insurance Fund, in amounts not exceeding—

“(A) \$10,000,000 in the fiscal year ending September 30, 1994;

“(B) \$15,000,000 in the fiscal year ending September 30, 1995;

“(C) \$20,000,000 in the fiscal year ending September 30, 1996; and

“(D) \$20,000,000 in each fiscal year thereafter;”.

Subsecs. (c) to (e). Pub. L. 108-264, § 103(d)(2), (3), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

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.

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§ 4105. Disaster mitigation requirements; notification to flood-prone areas

(a) Initial notification

Not later than six months following December 31, 1973, the Director shall publish information in accordance with section 4101(1) of this title, and shall notify the chief executive officer of each known flood-prone community not already participating in the national flood insurance program of its tentative identification as a community containing one or more areas having special flood hazards.

(b) Alternative actions of tentatively identified communities; public hearing; opportunity for submission of evidence; finality of administrative determination of existence or extent of flood hazard area

After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Director that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by flood-works or other flood control methods. The Director may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the Director decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Director’s final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by sub-

stantial evidence in the record considered as a whole.

(c) Subsequent notification to additional communities known to be flood prone areas

As information becomes available to the Director concerning the existence of flood hazards in communities not known to be flood prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

(d) Provisions of section 4106 applicable to flood-prone communities disqualified for flood insurance program

Formally identified flood-prone communities that do not qualify for the national flood insurance program within one year after such notification or by the date specified in section 4106 of this title, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program.

(e) Administrative procedures; establishment; reimbursement of certain expenses; appropriation authorization

The Director is authorized to establish administrative procedures whereby the identification under this section of one or more areas in the community as having special flood hazards may be appealed to the Director by the community or any owner or lessee of real property within the community who believes his property has been inadvertently included in a special flood hazard area by the identification. When, incident to any appeal under this subsection, the owner or lessee of real property or the community, as the case may be, incurs expense in connection with the services of surveyors, engineers, or similar services, but not including legal services, in the effecting of an appeal which is successful in whole or part, the Director shall reimburse such individual or community to an extent measured by the ratio of the successful portion of the appeal as compared to the entire appeal and applying such ratio to the reasonable value of all such services, but no reimbursement shall be made by the Director in respect to any fee or expense payment, the payment of which was agreed to be contingent upon the result of the appeal. There is authorized to be appropriated for purposes of implementing this subsection not to exceed \$250,000.

(Pub. L. 93-234, title II, §201, Dec. 31, 1973, 87 Stat. 982; Pub. L. 95-128, title VII, §704(d), Oct. 12, 1977, 91 Stat. 1146; Pub. L. 98-181, title IV, §451(e)(1), Nov. 30, 1983, 97 Stat. 1229; Pub. L. 98-479, title II, §204(j), Oct. 17, 1984, 98 Stat. 2233.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), means Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, as amended, known as the Flood Disaster Protection Act of 1973. For complete classification of this Act to the Code, see Short Title of 1973 Amendment note set out under section 4001 of this title and Tables.

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

1984—Subsec. (e). Pub. L. 98-479 struck out quotation marks before “\$250,000”.

1983—Subsecs. (a) to (c), (e). Pub. L. 98-181 substituted “Director” for “Secretary” and “Director’s” for “Secretary’s” wherever appearing.

1977—Subsec. (e). Pub. L. 95-128 added subsec. (e).

TRANSFER OF FUNCTIONS

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§ 4106. Nonparticipation in flood insurance program

(a) Prohibition against Federal approval of financial assistance

No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the Director as an area having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program.

(b) Notification of purchaser or lessee of property in flood hazard area of availability of Federal disaster relief assistance in event of a flood disaster

In addition to the requirements of section 4104a of this title, each Federal entity for lending regulation shall by regulation require the regulated lending institutions described in such section, and each Federal agency lender shall issue regulations requiring the Federal agency lender, described in such section to notify (as a condition of making, increasing, extending, or renewing any loan secured by property described in such section) the purchaser or lessee of such property of whether, in the event of a disaster caused by flood to such property, Federal disaster relief assistance will be available to such property.

(Pub. L. 93-234, title II, §202, Dec. 31, 1973, 87 Stat. 982; Pub. L. 94-50, title III, §303, July 2, 1975, 89 Stat. 256; Pub. L. 94-198, Dec. 31, 1975, 89 Stat. 1116; Pub. L. 94-375, §14(a), Aug. 3, 1976, 90 Stat. 1075; Pub. L. 95-128, title VII, §703(a), Oct. 12, 1977, 91 Stat. 1144; Pub. L. 98-181, title IV, §451(e)(1), Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103-325, title V, §511(b), Sept. 23, 1994, 108 Stat. 2256.)