

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

1994—Subsec. (b). Pub. L. 103-325 substituted “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,” for “Federal instrumentality described in such section shall by regulation require the institutions”.

1983—Subsec. (a). Pub. L. 98-181 substituted “Director” for “Secretary”.

1977—Subsec. (b). Pub. L. 95-128 substituted provisions respecting notification of purchaser or lessee of property in flood hazards area of availability of Federal disaster relief assistance in the event of a flood disaster for prior provisions relating to: Federal regulations against loans by financial institutions, unaffected pre-March 1, 1976, residences, small business concerns, improvements under \$5,000 and nonresidential farm improvement.

1976—Subsec. (b). Pub. L. 94-375 incorporated provision regarding any loan made prior to March 1, 1976, to finance the acquisition of a previously occupied residential dwelling into cl. (1) as so designated, added remainder of cl. (1), and cls. (2) to (4).

1975—Subsec. (b). Pub. L. 94-198 substituted “March 1, 1976” for “January 1, 1976”.

Pub. L. 94-50 inserted provision excepting from the prohibition of this section any loan made prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

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.

FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951 set out as a note under section 4321 of this title.

§ 4107. Consultation with local officials; scope

In carrying out his responsibilities under the provisions of this title¹ and the National Flood Insurance Act of 1968 [42 U.S.C. 4001 et seq.] which relate to notification to and identification of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the Director shall establish procedures

¹ See References in Text note below.

assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the program has been suspended. Such consultation shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Director concerning the nature and purpose of the study, the areas involved, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The Director shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study.

(Pub. L. 93-234, title II, §206, Dec. 31, 1973, 87 Stat. 983; Pub. L. 98-181, title IV, §451(e)(1), Nov. 30, 1983, 97 Stat. 1229.)

REFERENCES IN TEXT

This title, referred to in text, means title II of Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975, as amended, which enacted sections 4105 to 4107 and 4128 of this title and amended section 4101 of this title and sections 24 and 1709-1 of Title 12, Banks and Banking. 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.

The National Flood Insurance Act of 1968, referred to in text, 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.

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

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

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.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 4121. Definitions

(a) As used in this chapter—

(1) the term “flood” shall have such meaning as may be prescribed in regulations of the Di-

rector, and may include inundation from rising waters or from the overflow of streams, rivers, or other bodies of water, or from tidal surges, abnormally high tidal water, tidal waves, tsunamis, hurricanes, or other severe storms or deluge;

(2) the terms “United States” (when used in a geographic sense) and “State” includes the several States, the District of Columbia, the territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands;

(3) the terms “Insurance company”, “other insurer” and “insurance agent or broker” include any organizations and persons authorized to engage in the insurance business under the laws of any State;

(4) the term “insurance adjustment organization” includes any organizations and persons engaged in the business of adjusting loss claims arising under insurance policies issued by any insurance company or other insurer;

(5) the term “person” includes any individual or group of individuals, corporation, partnership, association, or any other organized group of persons, including State and local governments and agencies thereof;

(6) the term “Director” means the Administrator of the Federal Emergency Management Agency;

(7) the term “repetitive loss structure” means a structure covered by a contract for flood insurance that—

(A) has incurred flood-related damage on 2 occasions, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event; and

(B) at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.¹

(8) the term “Federal agency lender” means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

(9) the term “Federal entity for lending regulation” means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

(10) the term “improved real estate” means real estate upon which a building is located;

(11) the term “lender” means a regulated lending institution or Federal agency lender;

(12) the term “natural and beneficial floodplain functions” means—

(A) the functions associated with the natural or relatively undisturbed floodplain that (i) moderate flooding, retain flood waters, reduce erosion and sedimentation, and mitigate the effect of waves and storm surge

from storms, and (ii) reduce flood related damage; and

(B) ancillary beneficial functions, including maintenance of water quality and recharge of ground water, that reduce flood related damage;

(13) the term “regulated lending institution” means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation;

(14) the term “servicer” means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan; and

(15) the term “substantially damaged structure” means a structure covered by a contract for flood insurance that has incurred damage for which the cost of repair exceeds an amount specified in any regulation promulgated by the Director, or by a community ordinance, whichever is lower.

(b) The term “flood” shall also include inundation from mudslides which are proximately caused by accumulations of water on or under the ground; and all of the provisions of this chapter shall apply with respect to such mudslides in the same manner and to the same extent as with respect to floods described in subsection (a)(1) of this section, subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Director may prescribe to achieve (with respect to such mudslides) the purposes of this chapter and the objectives of the program.

(c) The term “flood” shall also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, and all of the provisions of this chapter shall apply with respect to such collapse or subsidence in the same manner and to the same extent as with respect to floods described in subsection (a)(1) of this section, subject to and in accordance with such regulations, modifying the provisions of this chapter (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Director may prescribe to achieve (with respect to such collapse or subsidence) the purposes of this chapter and the objectives of the program.

(Pub. L. 90-448, title XIII, §1370, Aug. 1, 1968, 82 Stat. 588; Pub. L. 91-152, title IV, §409(b), Dec. 24, 1969, 83 Stat. 397; Pub. L. 93-234, title I, §§107, 108(b), Dec. 31, 1973, 87 Stat. 979, 980; Pub. L. 98-181, title IV, §451(d)(1), (8), Nov. 30, 1983, 97

¹ So in original. The period probably should be a semicolon.

Stat. 1229; Pub. L. 100-628, title X, §1086(b), Nov. 7, 1988, 102 Stat. 3278; Pub. L. 103-325, title V, §512(a), Sept. 23, 1994, 108 Stat. 2256; Pub. L. 108-264, title I, §105(b), June 30, 2004, 118 Stat. 723; Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

REFERENCES IN TEXT

This chapter, referred to in text, 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

2004—Subsec. (a)(7). Pub. L. 108-264, §105(b)(1), added par. (7) and struck out former par. (7) which read as follows: "the term 'repetitive loss structure' means a structure covered by a contract for flood insurance under this chapter that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event;"

Subsec. (a)(15). Pub. L. 108-264, §105(b)(2)-(4), added par. (15).

1994—Subsec. (a)(7) to (14). Pub. L. 103-325 added pars. (7) to (14).

1988—Subsecs. (b), (c). Pub. L. 100-628 substituted "subsection (a)(1) of this section" for "paragraph (1)".

1983—Subsec. (a)(1). Pub. L. 98-181, §451(d)(1), substituted "Director" for "Secretary".

Subsec. (a)(6). Pub. L. 98-181, §451(d)(8), substituted definition of "Director" as the Director of the Federal Emergency Management Agency for definition of "Secretary" as the Secretary of Housing and Urban Development.

Subsecs. (b), (c). Pub. L. 98-181, §451(d)(1), substituted "Director" for "Secretary".

1973—Subsec. (b). Pub. L. 93-234, §107, inserted "proximately" before "caused".

Subsec. (c). Pub. L. 93-234, §108(b), added subsec. (c).

1969—Pub. L. 91-152 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

"Administrator of the Federal Emergency Management Agency" substituted for "Director of the Federal Emergency Management Agency" in subsec. (a)(6) on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

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 Reor-

ganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions of the Office of Thrift Supervision, including the functions of the Director of the Office of Thrift Supervision, to the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, see sections 5412 and 5413 of Title 12, Banks and Banking.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4122. Studies of other natural disasters; cooperation and consultation with other departments and agencies

(a) The Director is authorized to undertake such studies as may be necessary for the purpose of determining the extent to which insurance protection against earthquakes or any other natural disaster perils, other than flood, is not available from public or private sources, and the feasibility of such insurance protection being made available.

(b) Studies under this section shall be carried out, to the maximum extent practicable, with the cooperation of other Federal departments and agencies and State and local agencies, and the Director is authorized to consult with, receive information from, and enter into any necessary agreements or other arrangements with such other Federal departments and agencies (on a reimbursement basis) and such State and local agencies.

(Pub. L. 90-448, title XIII, §1371, Aug. 1, 1968, 82 Stat. 588; Pub. L. 98-181, title IV, §451(d)(1), Nov. 30, 1983, 97 Stat. 1229.)

AMENDMENTS

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

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.

STUDY OF SINKHOLE INSURANCE

Pub. L. 98-181, title IV, §453, Nov. 30, 1983, 97 Stat. 1230, permitted the Director of the Federal Emergency Management Agency to make a grant to a nonprofit organization, educational institution, or State or local agency to study the feasibility of expanding the national flood insurance program to cover damage or loss arising from sinkholes and authorized appropriations.

§ 4123. Advance payments

Any payments under this chapter may be made (after necessary adjustment on account of