

[For definitions of terms used in section 100230 of Pub. L. 112-141, set out above, see section 4004 of this title.]

FEEES

Pub. L. 108-7, div. K, title III, Feb. 20, 2003, 117 Stat. 5217, provided in part: "That beginning in fiscal year 2003 and thereafter, fees authorized in 42 U.S.C. 4014(a)(1)(B)(iii) shall be collected only if provided in advance in appropriations acts."

STUDY OF ECONOMIC EFFECTS OF CHARGING ACTUARIALLY BASED PREMIUM RATES FOR PRE-FIRM STRUCTURES

Pub. L. 103-325, title V, §578, Sept. 23, 1994, 108 Stat. 2284, required the Director of the Federal Emergency Management Agency to conduct a study of the economic effects that would result from increasing premium rates for flood insurance coverage for pre-FIRM structures and submit a report to Congress no later than 12 months after Sept. 23, 1994.

SEA LEVEL RISE STUDY

Pub. L. 101-137, §5, Nov. 3, 1989, 103 Stat. 825, directed Director of Federal Emergency Management Agency to conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps, such study also to project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region, with Director to report results of study to Congress not later than one year after Nov. 3, 1989.

§ 4015. Chargeable premium rates

(a) Establishment; terms and conditions

On the basis of estimates made under section 4014 of this title, and such other information as may be necessary, the Administrator shall from time to time prescribe, after providing notice—

- (1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 4012 of this title (at less than the estimated risk premium rates under section 4014(a)(1) of this title, where necessary), and
- (2) the terms and conditions under which, and the areas (including subdivisions thereof) within which, such rates shall apply.

(b) Considerations for rates

Such rates shall, insofar as practicable, be—

- (1) based on a consideration of the respective risks involved, including differences in risks due to land use measures, flood-proofing, flood forecasting, and similar measures;
- (2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, consistent with the objective of making flood insurance available where necessary at reasonable rates so as to encourage prospective insureds to purchase such insurance and with the purposes of this chapter;
- (3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 4014(a) of this title, to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title);
- (4) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates under section 4014(a)(1) of this title and the esti-

ated rates under section 4014(a)(2) of this title; and

- (5) adequate, on the basis of accepted actuarial principles, to cover the average historical loss year obligations incurred by the National Flood Insurance Fund.

(c) Actuarial rate properties

Subject only to the limitations provided under paragraphs (1) and (2), the chargeable rate shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title with respect to the following properties:

(1) Post-firm properties

Any property the construction or substantial improvement of which the Administrator determines has been started after December 31, 1974, or started after the effective date of the initial rate map published by the Administrator under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later, except that the chargeable rate for properties under this paragraph shall be subject to the limitation under subsection (e) of this section.

(2) Certain leased coastal and river properties

Any property leased from the Federal Government (including residential and nonresidential properties) that the Administrator determines is located on the river-facing side of any dike, levee, or other riverine flood control structure, or seaward of any seawall or other coastal flood control structure.

(d) Payment of certain sums to Administrator; deposits in Fund

With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 4014(a) of this title or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Administrator. The Administrator shall deposit the sum in the National Flood Insurance Fund established under section 4017 of this title.

(e) Annual limitation on premium increases

Except with respect to properties described under paragraph (2) of subsection (c) of this section, and notwithstanding any other provision of this chapter, the chargeable risk premium rates for flood insurance under this chapter for any properties—

- (1) within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 20 percent of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period; and
- (2) described in subparagraphs (A) through (E) of section 4014(a)(2) of this title shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (1).

(f) Adjustment of premium

Notwithstanding any other provision of law, if the Administrator determines that the holder of a flood insurance policy issued under this chapter is paying a lower premium than is required under this section due to an error in the flood plain determination, the Administrator may only prospectively charge the higher premium rate.

(g) Frequency of premium collection

With respect to any chargeable premium rate prescribed under this section, the Administrator shall provide policyholders that are not required to escrow their premiums and fees for flood insurance as set forth under section 4012a of this title with the option of paying their premiums either annually or in more frequent installments.

(h) Premium adjustment to reflect current risk of flood

Notwithstanding subsection (f), upon the effective date of any revised or updated flood insurance rate map under this chapter, the Flood Disaster Protection Act of 1973, or the Biggert-Waters Flood Insurance Reform Act of 2012, any property located in an area that is participating in the national flood insurance program shall have the risk premium rate charged for flood insurance on such property adjusted to accurately reflect the current risk of flood to such property, subject to any other provision of this chapter. Any increase in the risk premium rate charged for flood insurance on any property that is covered by a flood insurance policy on the effective date of such an update that is a result of such updating shall be phased in over a 5-year period, at the rate of 20 percent for each year following such effective date. In the case of any area that was not previously designated as an area having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in a flood insurance map, becomes designated as such an area, the chargeable risk premium rate for flood insurance under this chapter that is purchased on or after July 6, 2012, with respect to any property that is located within such area shall be phased in over a 5-year period, at the rate of 20 percent for each year following the effective date of such issuance, revision, updating, or change.

(i) Rule of construction

For purposes of this section, the calculation of an “average historical loss year”—

- (1) includes catastrophic loss years; and
- (2) shall be computed in accordance with generally accepted actuarial principles.

(Pub. L. 90-448, title XIII, §1308, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93-234, title I, §103, Dec. 31, 1973, 87 Stat. 978; Pub. L. 98-181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101-508, title II, §2302(e)(2), Nov. 5, 1990, 104 Stat. 1388-24; Pub. L. 103-325, title V, §572(a), Sept. 23, 1994, 108 Stat. 2277; Pub. L. 108-264, title I, §106, title II, §209, June 30, 2004, 118 Stat. 724, 727; Pub. L. 112-123, §2(b), May 31, 2012, 126 Stat. 365; Pub. L. 112-141, div. F, title II, §§100205(c), (d), 100207, 100211, 100238(b)(1), July 6, 2012, 126 Stat. 918, 919, 921, 958.)

REFERENCES IN TEXT

This chapter, referred to in subssecs. (b)(2) and (e) and the third time appearing in subsec. (h), 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.

This chapter, referred to in subsec. (f) and the first two times appearing in subsec. (h), was in the original “this Act”, and was translated as reading “this title”, meaning title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, as amended, known as the National Flood Insurance Act of 1968, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of this title and Tables.

The Flood Disaster Protection Act of 1973, referred to in subsec. (h), is Pub. L. 93-234, Dec. 31, 1973, 87 Stat. 975. 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 Biggert-Waters Flood Insurance Reform Act of 2012, referred to in subsec. (h), is subtitle A (§§100201-100249) of title II of div. F of Pub. L. 112-141, July 6, 2012, 126 Stat. 916. For complete classification of this Act to the Code, see Short Title of 2012 Amendment note set out under section 4001 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director” in introductory provisions.

Pub. L. 112-141, §100211(1), in introductory provisions, substituted “prescribe, after providing notice” for “, 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, prescribe by regulation”.

Subsec. (b)(5). Pub. L. 112-141, §100211(2), added par. (5).

Subsecs. (c), (d). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director” wherever appearing.

Subsec. (e). Pub. L. 112-141, §100205(c)(1), struck out “or (3)” after “paragraph (2)” and inserted “any properties” after “under this chapter for” in introductory provisions.

Pub. L. 112-123 substituted “under this chapter for—” for “under this chapter for”, inserted par. (1) designation before “any properties”, and added par. (2).

Subsec. (e)(1). Pub. L. 112-141, §100205(c)(2), substituted “within any single” for “any properties within any single” and “20 percent” for “10 percent”.

Subsec. (e)(2). Pub. L. 112-141, §100205(c)(3), added par. (2) and struck out former par. (2) which read as follows: “any residential properties which are not the primary residence of an individual, as described in section 4014(a)(2) of this title, shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (1).”

Subsec. (f). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director” in two places.

Subsec. (g). Pub. L. 112-141, §100205(d), added subsec. (g).

Subsec. (h). Pub. L. 112-141, §100207, added subsec. (h).

Subsec. (i). Pub. L. 112-141, §100211(3), added subsec. (i).

2004—Subsec. (c). Pub. L. 108-264, §106(a), added subsec. (c) and struck out former subsec. (c) which read as follows “Subject only to the limitation under subsection (e) of this section, the chargeable rate with respect to any property, the construction or substantial

improvements of which the Director determines has been started after December 31, 1974, or the effective date of the initial rate map published by the Director under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 4014(a)(1) of this title."

Subsec. (e). Pub. L. 108-264, §106(b), substituted "Except with respect to properties described under paragraph (2) or (3) of subsection (c) of this section, and notwithstanding" for "Notwithstanding".

Subsec. (f). Pub. L. 108-264, §209, added subsec. (f).

1994—Subsec. (c). Pub. L. 103-325, §572(a)(1), substituted "Subject only to the limitation under subsection (e) of this section" for "Notwithstanding any other provision of this chapter".

Subsec. (e). Pub. L. 103-325, §572(a)(2), added subsec. (e).

1990—Subsec. (b)(3), (4). Pub. L. 101-508, §2302(e)(2)(A), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d). Pub. L. 101-508, §2302(e)(2)(B), added subsec. (d) and struck out former subsec. (d) which read as follows: "In the event any chargeable premium rate prescribed under this section—

"(1) is a rate which is not less than the applicable estimated risk premium rate under section 4014(a)(1) of this title, and

"(2) includes any amount for administrative expenses of carrying out the flood insurance program which have been estimated under clause (ii) of section 4014(a)(1)(B) of this title,

a sum equal to such amount shall be paid to the Director, and he shall deposit such sum in the National Flood Insurance Fund established under section 4017 of this title."

1983—Subsecs. (a), (c), (d). Pub. L. 98-181 substituted "Director" for "Secretary" wherever appearing.

1973—Subsec. (c). Pub. L. 93-234 substituted "started after December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 4101 of this title for the area in which such property is located, whichever is later" for "started after the identification of the area in which such property is located has been published under paragraph (1) of section 4101 of this title".

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-123, §2(c), May 31, 2012, 126 Stat. 365, provided that: "The first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual under section 1308(e)(2) of the National Flood Insurance Act of 1968 [42 U.S.C. 4015(e)(2)], as added by this Act, shall take effect on July 1, 2012, and the chargeable risk premium rates for such properties shall be increased by 25 percent each year thereafter, as provided in such section 1308(e)(2)."

CONSTRUCTION OF AMENDMENT BY PUB. L. 112-141

Pub. L. 112-141, div. F, title II, §100205(e), July 6, 2012, 126 Stat. 919, provided that: "Nothing in this section [amending this section and section 4014 of this title and enacting provisions set out as a note under section 4014 of this title] or the amendments made by this section may be construed to affect the requirement under section 2(c) of the Act entitled 'An Act to extend the National Flood Insurance Program, and for other purposes', approved May 31, 2012 (Public Law 112-123) [set out above], that the first increase in chargeable risk premium rates for residential properties which are not the primary residence of an individual take effect on July 1, 2012."

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 Emer-

gency 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.

LIMITATION ON PREMIUMS

Pub. L. 101-508, title II, §2302(e)(5), Nov. 5, 1990, 104 Stat. 1388-25, provided that, notwithstanding section 541(d) of Pub. L. 100-242, formerly set out below, premium rates charged for flood insurance under any program established pursuant to this chapter could be increased by more than 10 percent during fiscal year 1991, with certain exceptions.

Pub. L. 100-242, title V, §541(d), Feb. 5, 1988, 101 Stat. 1939, as amended by Pub. L. 101-137, §1(d), Nov. 3, 1989, 103 Stat. 824; Pub. L. 101-508, title II, §2302(c), Nov. 5, 1990, 104 Stat. 1388-23, limited increases in premium rates charged for flood insurance under programs established pursuant to this chapter during period beginning Feb. 5, 1988, and ending Sept. 30, 1995, to prorated annual rate of 10 percent, prior to repeal by Pub. L. 103-325, title V, §572(b), Sept. 23, 1994, 108 Stat. 2278.

Pub. L. 98-181, title I [title IV, §451(g)(1)], Nov. 30, 1983, 97 Stat. 1229, provided that premium rates charged for flood insurance under any program established pursuant to this chapter could not be increased during the period beginning Nov. 30, 1983, and ending Sept. 30, 1984.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 4016. Financing

(a) Authority to issue notes and other obligations

All authority which was vested in the Housing and Home Finance Administrator by virtue of section 2414(e) of this title (pertaining to the issue of notes or other obligations to the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Administrator for the purpose of carrying out the flood insurance program under this chapter; except that the total amount of notes and obligations which may be issued by the Administrator pursuant to such authority (1) without the approval of the President, may not exceed \$500,000,000, and (2) with the approval of the President, may not exceed \$1,500,000,000 through the date specified in section 4026 of this title, and \$1,000,000,000 there-