

**§ 4032. Treatment of swimming pool enclosures outside of hurricane season**

**(a) In general**

Notwithstanding any other provision of law, including the adequate land use and control measures developed pursuant to section 4102 of this title and applicable to non-one- and two-family structures located within coastal areas, as identified by the Administrator, the following may be permitted:

(1) Nonsupporting breakaway walls in the space below the lowest elevated floor of a building, if the space is used solely for a swimming pool between November 30 and June 1 of any year, in an area designated as Zone V on a flood insurance rate map.

(2) Openings in walls in the space below the lowest elevated floor of a building, if the space is used solely for a swimming pool between November 30 and June 1 of any year, in an area designated as Zone A on a flood insurance rate map.

**(b) Rule of construction**

Nothing in subsection (a) shall be construed to alter the terms and conditions of eligibility and insurability of coverage for a building under the standard flood insurance policy under the national flood insurance program.

(Pub. L. 90-448, title XIII, §1325, as added Pub. L. 112-141, div. F, title II, §100242, July 6, 2012, 126 Stat. 962.)

**SUBCHAPTER II—ORGANIZATION AND ADMINISTRATION OF FLOOD INSURANCE PROGRAM**

**§ 4041. Implementation of program**

Following such consultation with representatives of the insurance industry as may be necessary, the Administrator shall implement the flood insurance program authorized under subchapter I of this chapter in accordance with the provisions of part A of this subchapter and, if a determination is made by him under section 4071 of this title, under part B of this subchapter.

(Pub. L. 90-448, title XIII, §1330, Aug. 1, 1968, 82 Stat. 581; Pub. L. 98-181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112-141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 958.)

**AMENDMENTS**

2012—Pub. L. 112-141 substituted “Administrator” for “Director”.

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

**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 treat-

ment 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.

**PART A—INDUSTRY PROGRAM WITH FEDERAL FINANCIAL ASSISTANCE**

**§ 4051. Industry flood insurance pool; requirements for participation**

(a) The Administrator is authorized to encourage and otherwise assist any insurance companies and other insurers which meet the requirements prescribed under subsection (b) of this section to form, associate, or otherwise join together in a pool—

(1) in order to provide the flood insurance coverage authorized under subchapter I of this chapter; and

(2) for the purpose of assuming, including as reinsurance of coverage provided by the flood insurance program, on such terms and conditions as may be agreed upon, such financial responsibility as will enable such companies and other insurers, with the Federal financial and other assistance available under this chapter, to assume a reasonable proportion of responsibility for the adjustment and payment of claims for losses under the flood insurance program.

(b) In order to promote the effective administration of the flood insurance program under this part, and to assure that the objectives of this chapter are furthered, the Administrator is authorized to prescribe appropriate requirements for insurance companies and other insurers participating in such pool including, but not limited to, minimum requirements for capital or surplus or assets.

(Pub. L. 90-448, title XIII, §1331, Aug. 1, 1968, 82 Stat. 582; Pub. L. 98-181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112-141, div. F, title II, §§100232(d)(1), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a)(2) and (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**

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

Subsec. (a)(2). Pub. L. 112-141, §100232(d)(1), inserted “, including as reinsurance of coverage provided by the flood insurance program” before “, on such terms”.

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

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.

#### § 4052. Agreements with flood insurance pool

##### (a) Authorization

The Administrator is authorized to enter into such agreements with the pool formed or otherwise created under this part as he deems necessary to carry out the purposes of this chapter.

##### (b) Terms and conditions

Such agreements shall specify—

(1) the terms and conditions under which risk capital will be available for the adjustment and payment of claims,

(2) the terms and conditions under which the pool (and the companies and other insurers participating therein) shall participate in premiums received and profits or losses realized or sustained,

(3) the maximum amount of profit, established by the Administrator and set forth in the schedules prescribed under section 4018 of this title, which may be realized by such pool (and the companies and other insurers participating therein),

(4) the terms and conditions under which operating costs and allowances set forth in the schedules prescribed under section 4018 of this title may be paid, and

(5) the terms and conditions under which premium equalization payments under section 4054 of this title will be made and reinsurance claims under section 4055 of this title will be paid.

##### (c) Additional provisions

In addition, such agreements shall contain such provisions as the Administrator finds necessary to assure that—

(1) no insurance company or other insurer which meets the requirements prescribed under section 4051(b) of this title, and which has indicated an intention to participate in the flood insurance program on a risk-sharing basis, will be excluded from participating in the pool,

(2) the insurance companies and other insurers participating in the pool will take whatever action may be necessary to provide continuity of flood insurance coverage or reinsurance by the pool, and

(3) any insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations will be permitted to cooperate with the pool as fiscal agents or otherwise, on other than a risk-sharing basis, to the maximum extent practicable.

(Pub. L. 90-448, title XIII, §1332, Aug. 1, 1968, 82 Stat. 582; Pub. L. 98-181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 112-141, div. F, title II, §§100232(d)(2), 100238(b)(1), July 6, 2012, 126 Stat. 954, 958.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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

2012—Subsecs. (a), (b)(3), (c). Pub. L. 112-141, §100238(b)(1), substituted “Administrator” for “Director”.

Subsec. (c)(2). Pub. L. 112-141, §100232(d)(2), inserted “or reinsurance” after “flood insurance coverage”.

1983—Subsecs. (a), (b)(3), (c). Pub. L. 98-181 substituted “Director” for “Secretary”.

#### 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.

#### § 4053. Adjustment and payment of claims; judicial review; limitations; jurisdiction

The insurance companies and other insurers which form, associate, or otherwise join together in the pool under this part may adjust and pay all claims for proved and approved losses covered by flood insurance in accordance with the provisions of this chapter and, upon the disallowance by any such company or other insurer of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against such company or other insurer in the United States district court for the district in which the insured property or the major part thereof shall have been situated, and original exclusive jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy.

(Pub. L. 90-448, title XIII, §1333, Aug. 1, 1968, 82 Stat. 583; Pub. L. 98-181, title I [title IV, §451(d)(3)], Nov. 30, 1983, 97 Stat. 1229.)

#### 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

1983—Pub. L. 98-181 inserted “original exclusive” before “jurisdiction”.