

take any necessary arrangements to carry out the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, utilizing, for purposes of providing flood insurance coverage, either—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,

(2) such other officers and employees of any executive agency (as defined in section 105 of title 5) as the Administrator and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2).

(b) Upon making the determination referred to in subsection (a) of this section, the Administrator shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 4017 of this title. Such report shall—

(1) state the reason for such determinations,

(2) be supported by pertinent findings,

(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

(4) contain such recommendations as the Administrator deems advisable.

The Administrator shall not implement the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government until 9 months after the date of submission of the report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.

(Pub. L. 90-448, title XIII, §1340, Aug. 1, 1968, 82 Stat. 584; Pub. L. 98-181, title I [title IV, §451(d)(1), (4)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 101-137, §3, Nov. 3, 1989, 103 Stat. 824; Pub. L. 112-141, div. F, title II, §100238(b)(1), July 6, 2012, 126 Stat. 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—Pub. L. 112-141 substituted “Administrator” for “Director” wherever appearing in text.

1989—Subsec. (b). Pub. L. 101-137 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Upon making the determination referred to in subsection (a) of this section, and at least thirty days prior to implementing the program of flood insurance authorized under subchapter I of this chapter through the facilities of the Federal Government, the Director shall make a report to the Congress and such report shall—

“(1) state the reasons for such determination,

“(2) be supported by pertinent findings,

“(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

“(4) contain such recommendations as the Director deems advisable.”

1983—Subsec. (a). Pub. L. 98-181, §451(d)(1), in provisions preceding par. (1), substituted “Director” for “Secretary”.

Subsec. (a)(2). Pub. L. 98-181, §451(d)(4), struck out “officers and employees of the Department of Housing and Urban Development, and” before “such other officers”.

Pub. L. 98-181, §451(d)(1), substituted “Director” for “Secretary”.

Subsec. (b). Pub. L. 98-181, §451(d)(1), 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.

§ 4072. Adjustment and payment of claims; judicial review; limitations; jurisdiction

In the event the program is carried out as provided in section 4071 of this title, the Administrator shall be authorized to adjust and make payment of any claims for proved and approved losses covered by flood insurance, and upon the disallowance by the Administrator 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 by the Administrator, may institute an action against the Administrator on such claim 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 the controversy.

(Pub. L. 90-448, title XIII, §1341, Aug. 1, 1968, 82 Stat. 584; Pub. L. 98-181, title I [title IV, §451(d)(1), (5)], 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” wherever appearing.

1983—Pub. L. 98-181, §451(d)(5), inserted “original exclusive” before “jurisdiction”.

Pub. L. 98-181, §451(d)(1), 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.

PART C—GENERAL PROVISIONS

§ 4081. Services by insurance industry

(a) Contracting for services and facilities

In administering the flood insurance program under this subchapter, the Administrator is authorized to enter into any contracts, agreements, or other appropriate arrangements which may, from time to time, be necessary for the purpose of utilizing, on such terms and conditions as may be agreed upon, the facilities and services of any insurance companies or other insurers, insurance agents and brokers, or insurance adjustment organizations; and such contracts, agreements, or arrangements may include provision for payment of applicable operating costs and allowances for such facilities and services as set forth in the schedules prescribed under section 4018 of this title.

(b) Certain laws inapplicable to contracting

Any such contracts, agreements, or other arrangements may be entered into without regard to the provisions of section 6101 of title 41 or any other provision of law requiring competitive bidding and without regard to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(c) Hold harmless

The Administrator of the Federal Emergency Management Agency shall hold any agent or broker selling or undertaking to sell flood insurance under this chapter harmless from any judgment for damages against such agent or broker as a result of any court action by a policyholder or applicant arising out of an error or omission on the part of the Federal Emergency Management Agency, and shall provide any such agent or broker with indemnification, including court costs and reasonable attorney fees, arising out of and caused by an error or omission on the part of the Federal Emergency Management Agency and its contractors. The Administrator of the Federal Emergency Management Agency may not hold harmless or indemnify an agent or broker for his or her error or omission.

(d) FEMA authority on transfer of policies

Notwithstanding any other provision of this chapter, the Administrator may, at the discretion of the Administrator, refuse to accept the transfer of the administration of policies for coverage under the flood insurance program under this chapter that are written and administered by any insurance company or other insurer, or any insurance agent or broker.

(Pub. L. 90-448, title XIII, §1345, Aug. 1, 1968, 82 Stat. 585; Pub. L. 97-35, title III, §341(e), Aug. 13, 1981, 95 Stat. 419; Pub. L. 98-181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103-325, title V, §574, Sept. 23, 1994, 108 Stat. 2278;

Pub. L. 112-141, div. F, title II, §§100238(b)(1), 100245, July 6, 2012, 126 Stat. 958, 966.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This chapter, referred to in subssecs. (c) and (d), 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.

CODIFICATION

In subsec. (b), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes (41 U.S.C. 5)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

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

Subsec. (d). Pub. L. 112-141, §100245, added subsec. (d).

1994—Subsec. (b). Pub. L. 103-325 inserted before period at end “and without regard to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)”.

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

1981—Subsec. (c). Pub. L. 97-35 added subsec. (c).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of Title 12, Banks and Banking.

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.

OVERSIGHT AND EXPENSE REIMBURSEMENTS OF INSURANCE COMPANIES

Pub. L. 112-141, div. F, title II, §100224, July 6, 2012, 126 Stat. 936, provided that:

“(a) SUBMISSION OF BIENNIAL REPORTS.—

“(1) TO THE ADMINISTRATOR.—Not later than 20 days after the date of enactment of this Act [July 6, 2012], each property and casualty insurance company participating in the Write Your Own program shall submit to the Administrator any biennial report required by the Federal Emergency Management Agency to be prepared in the prior 5 years by such company.

“(2) TO GAO.—Not later than 10 days after the submission of the biennial reports under paragraph (1), the Administrator shall submit all such reports to the Comptroller General of the United States.

“(3) NOTICE TO CONGRESS OF FAILURE TO COMPLY.—The Administrator shall notify and report to the