

Subsec. (a)(9). Pub. L. 108-264, §104(b), added par. (9). 1994—Subsec. (a). Pub. L. 103-325, §§554(b)(1), 577(h)(1), in introductory provisions, substituted “shall” for “is authorized to” after “Director”, inserted “an account separate from any other accounts or funds available to the Director and shall be” after “which shall be”, and inserted “(except as otherwise provided in this section)” after “without fiscal year limitation”.

Subsec. (a)(6) to (8). Pub. L. 103-325, §§542, 554(b)(2), 577(h)(2), added pars. (6) to (8), respectively.

1990—Subsec. (a)(4). Pub. L. 101-508 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “to pay such administrative expenses (or portion of such expenses) of carrying out the flood insurance program as he may deem necessary; and”.

1988—Subsec. (e). Pub. L. 100-242 substituted “title 31, United States Code,” for “title 31, United States Code”, which for purposes of codification was translated as “title 31”, requiring no change in text.

1984—Subsec. (e). Pub. L. 98-479 substituted “sections 9103 and 9104 of title 31” for “law (sections 102, 103, and 104 of the Government Corporations Control Act (31 U.S.C. 847-849))”.

1983—Subsecs. (a), (b)(5), (c), (d). Pub. L. 98-181 substituted “Director” for “Secretary” wherever appearing.

1981—Subsec. (a). Pub. L. 97-35, §341(c)(1), inserted reference to subsec. (f) of this section.

Subsec. (f). Pub. L. 97-35, §341(c)(2), added subsec. (f).

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.

§ 4017a. Reserve Fund

(a) Establishment of Reserve Fund

In carrying out the flood insurance program authorized by this subchapter, the Administrator shall establish in the Treasury of the United States a National Flood Insurance Reserve Fund (in this section referred to as the “Reserve Fund”) which shall—

(1) be an account separate from any other accounts or funds available to the Administrator; and

(2) be available for meeting the expected future obligations of the flood insurance program, including—

(A) the payment of claims;

(B) claims adjustment expenses; and

(C) the repayment of amounts outstanding under any note or other obligation issued by the Administrator under section 4016(a) of this title.

(b) Reserve ratio

Subject to the phase-in requirements under subsection (d), the Reserve Fund shall maintain a balance equal to—

(1) 1 percent of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year; or

(2) such higher percentage as the Administrator determines to be appropriate, taking into consideration any circumstance that may raise a significant risk of substantial future losses to the Reserve Fund.

(c) Maintenance of reserve ratio

(1) In general

The Administrator shall have the authority to establish, increase, or decrease the amount of aggregate annual insurance premiums to be collected for any fiscal year necessary—

(A) to maintain the reserve ratio required under subsection (b); and

(B) to achieve such reserve ratio, if the actual balance of such reserve is below the amount required under subsection (b).

(2) Considerations

In exercising the authority granted under paragraph (1), the Administrator shall consider—

(A) the expected operating expenses of the Reserve Fund;

(B) the insurance loss expenditures under the flood insurance program;

(C) any investment income generated under the flood insurance program; and

(D) any other factor that the Administrator determines appropriate.

(3) Limitations

(A) Rates

In exercising the authority granted under paragraph (1), the Administrator shall be subject to all other provisions of this chapter, including any provisions relating to chargeable premium rates or annual increases of such rates.

(B) Use of additional annual insurance premiums

Notwithstanding any other provision of law or any agreement entered into by the Administrator, the Administrator shall ensure that all amounts attributable to the establishment or increase of annual insurance premiums under paragraph (1) are transferred to the Administrator for deposit into the Reserve Fund, to be available for meeting the expected future obligations of the flood insurance program as described in subsection (a)(2).

(4) Deposit of premium surcharges

The Administrator shall deposit in the Reserve Fund any surcharges collected pursuant to section 4015a of this title.

(d) Phase-in requirements

The phase-in requirements under this subsection are as follows:

(1) In general

Beginning in fiscal year 2013 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved, in each such fiscal year the Administrator shall place in the Reserve Fund an amount equal to

not less than 7.5 percent of the reserve ratio required under subsection (b).

(2) Amount satisfied

As soon as the ratio required under subsection (b) is achieved, and except as provided in paragraph (3), the Administrator shall not be required to set aside any amounts for the Reserve Fund.

(3) Exception

If at any time after the ratio required under subsection (b) is achieved, the Reserve Fund falls below the required ratio under subsection (b), the Administrator shall place in the Reserve Fund for that fiscal year an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

(e) Limitation on reserve ratio

In any given fiscal year, if the Administrator determines that the reserve ratio required under subsection (b) cannot be achieved, the Administrator shall submit, on a calendar quarterly basis, a report to Congress that—

- (1) describes and details the specific concerns of the Administrator regarding the consequences of the reserve ratio not being achieved;
- (2) demonstrates how such consequences would harm the long-term financial soundness of the flood insurance program; and
- (3) indicates the maximum attainable reserve ratio for that particular fiscal year.

(f) Investment

The Secretary of the Treasury shall invest such amounts of the Reserve Fund as the Secretary determines advisable in obligations issued or guaranteed by the United States.

(Pub. L. 90-448, title XIII, §1310A, as added Pub. L. 112-141, div. F, title II, §100212, July 6, 2012, 126 Stat. 922; amended Pub. L. 113-89, §§8(b), 20, Mar. 21, 2014, 128 Stat. 1024, 1028.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3)(A), 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, 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.

AMENDMENTS

2014—Subsec. (c)(4). Pub. L. 113-89, §8(b), added par. (4).

Subsec. (e). Pub. L. 113-89, §20, inserted “, on a calendar quarterly basis,” after “submit” in introductory provisions.

§ 4018. Operating costs and allowances; definitions

(a) The Administrator shall from time to time negotiate with appropriate representatives of the insurance industry for the purpose of establishing—

- (1) a current schedule of operating costs applicable both to risk-sharing insurance companies and other insurers and to insurance companies and other insurers, insurance agents

and brokers, and insurance adjustment organizations participating on other than a risk-sharing basis, and

- (2) a current schedule of operating allowances applicable to risk-sharing insurance companies and other insurers,

which may be payable in accordance with the provisions of subchapter II of this chapter, and such schedules shall from time to time be prescribed in regulations.

(b) For purposes of subsection (a) of this section—

- (1) the term “operating costs” shall (without limiting such term) include—

- (A) expense reimbursements covering the direct, actual, and necessary expenses incurred in connection with selling and servicing flood insurance coverage;
- (B) reasonable compensation payable for selling and servicing flood insurance coverage, or commissions or service fees paid to producers;
- (C) loss adjustment expenses; and
- (D) other direct, actual, and necessary expenses which the Administrator finds are incurred in connection with selling or servicing flood insurance coverage; and

- (2) the term “operating allowances” shall (without limiting such term) include amounts for profit and contingencies which the Administrator finds reasonable and necessary to carry out the purposes of this chapter.

(Pub. L. 90-448, title XIII, §1311, Aug. 1, 1968, 82 Stat. 579; 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.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), 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)(1)(D), (2). Pub. L. 112-141 substituted “Administrator” for “Director”.

1983—Subsecs. (a), (b)(1)(D), (2). Pub. L. 98-181 substituted “Director” for “Secretary” wherever appearing.

TRANSFER OF FUNCTIONS

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