

representatives of the national flood insurance program who participate in the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).

(Pub. L. 90-448, title XIII, § 1314, as added Pub. L. 112-141, div. F, title II, § 100223, July 6, 2012, 126 Stat. 934.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (f)(2)(B), and (g), 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.

Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, referred to in subsecs. (i)(2) and (j), is section 205 of Pub. L. 108-264, which is set out in a note under section 4011 of this title.

#### PRIOR PROVISIONS

A prior section 4021, Pub. L. 90-448, title XIII, § 1314, Aug. 1, 1968, 82 Stat. 579, which denied Federal disaster assistance after Dec. 31, 1973, to persons who for a period of a year or more could have purchased flood insurance but did not do so, and defined “Federal disaster assistance” and “financial assistance”, was repealed by Pub. L. 93-234, title II, § 203, Dec. 31, 1973, 87 Stat. 982.

### § 4022. State and local land use controls

#### (a) Requirement for participation in flood insurance program

##### (1) In general

After December 31, 1971, no new flood insurance coverage shall be provided under this chapter in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate land use and control measures (with effective enforcement provisions) which the Administrator finds are consistent with the comprehensive criteria for land management and use under section 4102 of this title.

##### (2) Agricultural structures

###### (A) Activity restrictions

Notwithstanding any other provision of law, the adequate land use and control measures required to be adopted in an area (or subdivision thereof) pursuant to paragraph (1) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to predamaged conditions of an agricultural structure that—

- (i) is a repetitive loss structure; or
- (ii) has incurred flood-related damage to the extent that the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

###### (B) Premium rates and coverage

To the extent applicable, an agricultural structure repaired or restored pursuant to subparagraph (A) shall pay chargeable premium rates established under section 4015 of this title at the estimated risk premium

rates under section 4014(a)(1) of this title. If resources are available, the Administrator shall provide technical assistance and counseling, upon request of the owner of the structure, regarding wet flood-proofing and other flood damage reduction measures for agricultural structures. The Administrator shall not be required to make flood insurance coverage available for such an agricultural structure unless the structure is wet flood-proofed through permanent or contingent measures applied to the structure or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to pass through the structure, as determined by the Administrator.

###### (C) Prohibition on disaster relief

Notwithstanding any other provision of law, any agricultural structure repaired or restored pursuant to subparagraph (A) shall not be eligible for disaster relief assistance under any program administered by the Administrator or any other Federal agency.

###### (D) Definitions

For purposes of this paragraph—

- (i) the term “agricultural structure” means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and
- (ii) the term “agricultural commodities” means agricultural commodities and livestock.

#### (b) Community rating system and incentives for community floodplain management

##### (1) Authority and goals

The Administrator shall carry out a community rating system program, under which communities participate voluntarily—

- (A) to provide incentives for measures that reduce the risk of flood or erosion damage that exceed the criteria set forth in section 4102 of this title and evaluate such measures;
- (B) to encourage adoption of more effective measures that protect natural and beneficial floodplain functions;
- (C) to encourage floodplain and erosion management; and
- (D) to promote the reduction of Federal flood insurance losses.

##### (2) Incentives

The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Administrator determines have adopted and enforced measures that reduce the risk of flood and erosion damage that exceed the criteria set forth in section 4102 of this title. In providing incentives under this paragraph, the Administrator may provide for credits to flood insurance premium rates in communities that the Administrator determines have implemented measures that protect natural and beneficial floodplain functions.

##### (3) Credits

The credits on premium rates for flood insurance coverage shall be based on the esti-

mated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program. If a community has received mitigation assistance under section 4104c of this title, the credits shall be phased in a manner, determined by the Administrator, to recover the amount of such assistance provided for the community.

#### (4) Reports

Not later than 2 years after September 23, 1994, and not less than every 2 years thereafter, the Administrator shall submit a report to the Congress regarding the program under this subsection. Each report shall include an analysis of the cost-effectiveness of the program, any other accomplishments or shortcomings of the program, and any recommendations of the Administrator for legislation regarding the program.

### (c) Replacement of mobile homes on original sites

#### (1) Community participation

The placement of any mobile home on any site shall not affect the eligibility of any community to participate in the flood insurance program under this chapter and the Flood Disaster Protection Act of 1973 (notwithstanding that such placement may fail to comply with any elevation or flood damage mitigation requirements), if—

- (A) such mobile home was previously located on such site;
- (B) such mobile home was relocated from such site because of flooding that threatened or affected such site; and
- (C) such replacement is conducted not later than the expiration of the 180-day period that begins upon the subsidence (in the area of such site) of the body of water that flooded to a level considered lower than flood levels.

#### (2) Definition

For purposes of this subsection, the term “mobile home” has the meaning given such term in the law of the State in which the mobile home is located.

(Pub. L. 90–448, title XIII, §1315, Aug. 1, 1968, 82 Stat. 580; Pub. L. 91–152, title IV, §410(b), Dec. 24, 1969, 83 Stat. 397; Pub. L. 98–181, title I [title IV, §451(d)(1)], Nov. 30, 1983, 97 Stat. 1229; Pub. L. 103–325, title V, §§541, 580, Sept. 23, 1994, 108 Stat. 2268, 2285; Pub. L. 108–264, title I, §108, June 30, 2004, 118 Stat. 724; 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 subsecs. (a)(1) and (c)(1), 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.

The Flood Disaster Protection Act of 1973, referred to in subsec. (c)(1), is Pub. L. 93–234, Dec. 31, 1973, 87 Stat. 975, as amended. 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.

#### AMENDMENTS

2012—Subsecs. (a)(1), (2)(B), (C), (b). Pub. L. 112–141 substituted “Administrator” for “Director” wherever appearing.

2004—Subsec. (c). Pub. L. 108–264 added subsec. (c).

1994—Subsec. (a)(1). Pub. L. 103–325, §541(1), designated existing provisions as subsec. (a)(1) and inserted headings.

Subsec. (a)(2). Pub. L. 103–325, § 580, added par. (2).

Subsec. (b). Pub. L. 103–325, § 541(2), added subsec. (b).

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

1969—Pub. L. 91–152 substituted provisions prohibiting new flood insurance coverage after Dec. 31, 1971, unless adequate land use measures have been adopted, for provisions prohibiting such coverage after June 30, 1970, unless permanent land use measures have been adopted.

#### 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.

### § 4023. Properties in violation of State and local law

No new flood insurance coverage shall be provided under this chapter for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(Pub. L. 90–448, title XIII, §1316, Aug. 1, 1968, 82 Stat. 580; 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.)

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#### AMENDMENTS

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#### TRANSFER OF FUNCTIONS

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