

## EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-242, title V, §544(b), Feb. 5, 1988, 101 Stat. 1942, provided that: "The amendment made by this section [amending this section] shall become effective on the date of the enactment of this Act [Feb. 5, 1988]."

## EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90-448, set out as a note under section 4001 of this title.

## SAVINGS PROVISION

Pub. L. 103-325, title V, §552(c), Sept. 23, 1994, 108 Stat. 2269, required the Director of the Federal Emergency Management Agency to make payments under flood insurance contracts based on commitments made before the expiration of the 1-year period beginning on Sept. 23, 1994, pursuant to the authority under subsec. (c) of this section or section 552(b) of Pub. L. 103-325, formerly set out below.

## 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.

## TRANSITION PHASE

Pub. L. 103-325, title V, §552(b), Sept. 23, 1994, 108 Stat. 2269, permitted the Director of the Federal Emergency Management Agency to pay amounts under flood insurance contracts for demolition or relocation of structures as provided in subsec. (c) of this section (as in effect immediately before the enactment of Pub. L. 103-325), during the 1-year period beginning on Sept. 23, 1994.

**§ 4013a. Policy disclosures****(a) In general**

Notwithstanding any other provision of law, in addition to any other disclosures that may be required, each policy under the National Flood Insurance Program shall state all conditions, exclusions, and other limitations pertaining to coverage under the subject policy, regardless of the underlying insurance product, in plain English, in boldface type, and in a font size that is twice the size of the text of the body of the policy.

**(b) Violations**

The Administrator may impose a civil penalty of not more than \$50,000 on any person that fails to comply with subsection (a).

(Pub. L. 112-141, div. F, title II, §100234, July 6, 2012, 126 Stat. 956.)

## CODIFICATION

Section was enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012, and also as part of

the Moving Ahead for Progress in the 21st Century Act, also known as the MAP-21, and not as part of the National Flood Insurance Act of 1968 which comprises this chapter.

## DEFINITIONS

For definitions of terms used in this section, see section 4004 of this title.

**§ 4014. Estimates of premium rates****(a) Studies and investigations**

The Administrator is authorized to undertake and carry out such studies and investigations and receive or exchange such information as may be necessary to estimate, and shall from time to time estimate, on an area, subdivision, or other appropriate basis—

(1) the risk premium rates for flood insurance which—

(A) based on consideration of—

(i) the risk involved and accepted actuarial principles; and

(ii) the flood mitigation activities that an owner or lessee has undertaken on a property, including differences in the risk involved due to land use measures, flood-proofing, flood forecasting, and similar measures, and

(B) including—

(i) the applicable operating costs and allowances set forth in the schedules prescribed under section 4018 of this title and reflected in such rates,

(ii) any administrative expenses (or portion of such expenses) of carrying out the flood insurance program which, in his discretion, should properly be reflected in such rates,

(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commissions, company expense allowances, or State or local premium taxes, and

(iv) all costs, as prescribed by principles and standards of practice in ratemaking adopted by the American Academy of Actuaries and the Casualty Actuarial Society, including—

(I) an estimate of the expected value of future costs,

(II) all costs associated with the transfer of risk, and

(III) the costs associated with an individual risk transfer with respect to risk classes, as defined by the Administrator,

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage is available under section 4012(a) of this title (or is recommended to the Congress under section 4012(b) of this title);

(2) the rates, if less than the rates estimated under paragraph (1), which would be reasonable, would encourage prospective insureds to

purchase flood insurance, and would be consistent with the purposes of this chapter, and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and flood-plain management programs (including the costs of mapping activities under section 4101 of this title), except that the Administrator shall not estimate rates under this paragraph for—

(A) any residential property which is not the primary residence of an individual;

(B) any severe repetitive loss property;

(C) any property that has incurred flood-related damage in which the cumulative amounts of payments under this chapter equaled or exceeded the fair market value of such property;

(D) any business property; or

(E) any property which on or after July 6, 2012, has experienced or sustained—

(i) substantial damage exceeding 50 percent of the fair market value of such property; or

(ii) substantial improvement exceeding 50 percent of the fair market value of such property; and

(3) the extent, if any, to which federally assisted or other flood protection measures initiated after August 1, 1968, affect such rates.

**(b) Utilization of services of other Departments and agencies**

In carrying out subsection (a), the Administrator shall, to the maximum extent feasible and on a reimbursement basis, utilize the services of the Department of the Army, the Department of the Interior, the Department of Agriculture, the Department of Commerce, and the Tennessee Valley Authority, and, as appropriate, other Federal departments or agencies, and for such purposes may enter into agreements or other appropriate arrangements with any persons.

**(c) Priority to studies and investigations in States or areas evidencing positive interest in securing insurance under program**

The Administrator shall give priority to conducting studies and investigations and making estimates under this section in those States or areas (or subdivisions thereof) which he has determined have evidenced a positive interest in securing flood insurance coverage under the flood insurance program.

**(d) Parishes of Louisiana; premium rates**

Notwithstanding any other provision of law, any structure existing on December 31, 1973, and located within Avoyelles, Evangeline, Rapides, or Saint Landry Parish in the State of Louisiana, which the Secretary determines is subject to additional flood hazards as a result of the construction or operation of the Atchafalaya Basin Levee System, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates that shall not exceed those which would be

applicable if such additional hazards did not exist.

**(e) Eligibility of community making adequate progress on construction of flood protection system for rates not exceeding those applicable to completed flood protection system; determination of adequate progress**

Notwithstanding any other provision of law, any community that has made adequate progress, acceptable to the Administrator, on the construction or reconstruction of a flood protection system which will afford flood protection for the one-hundred year frequency flood as determined by the Administrator, shall be eligible for flood insurance under this chapter (if and to the extent it is eligible for such insurance under the other provisions of this chapter) at premium rates not exceeding those which would be applicable under this section if such flood protection system had been completed. The Administrator shall find that adequate progress on the construction or reconstruction of a flood protection system, based on the present value of the completed flood protection system, has been made only if: (1) 100 percent of the cost of the system has been authorized; (2) at least 60 percent of the cost of the system has been appropriated; (3) at least 50 percent of the cost of the system has been expended; and (4) the system is at least 50 percent completed. Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds.

**(f) Availability of flood insurance in communities restoring discredited flood protection systems; criteria; rates**

Notwithstanding any other provision of law, this subsection shall apply to riverine and coastal levees that are located in a community which has been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so, and shall apply without regard to the level of Federal funding or participation in the construction, reconstruction, or improvement of the flood protection system. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the discreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Administrator for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the discreditation of the flood protection system. A community will be considered to be in the process of restoration if—

(1) the flood protection system has been deemed restorable by a Federal agency in consultation with the local project sponsor;

(2) a minimum level of flood protection is still provided to the community by the dis-accredited system; and

(3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

Communities that the Administrator of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction, provided the base flood elevation based on the dis-accredited flood control system does not exceed five feet above existing grade, or the remaining new construction in such communities is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas.

The Administrator of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after October 28, 1992.

**(g) No extension of subsidy to new policies or lapsed policies**

The Administrator shall not provide flood insurance to prospective insureds at rates less than those estimated under subsection (a)(1), as required by paragraph (2) of that subsection, for—

(1) any policy under the flood insurance program that has lapsed in coverage,<sup>1</sup> unless the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage; or

(2) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—

(A) following a major disaster, as defined in section 5122 of this title; or

(B) in connection with—

(i) a repetitive loss property; or

(ii) a severe repetitive loss property.

**(h) Definition**

In this section, the term “severe repetitive loss property” has the following meaning:

**(1) Single-family properties**

In the case of a property consisting of 1 to 4 residences, such term means a property that—

(A) is covered under a contract for flood insurance made available under this chapter; and

(B) has incurred flood-related damage—

(i) for which 4 or more separate claims payments have been made under flood insurance coverage under this subchapter, with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or

(ii) for which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the value of the property.

**(2) Multifamily properties**

In the case of a property consisting of 5 or more residences, such term shall have such meaning as the Director<sup>2</sup> shall by regulation provide.

(Pub. L. 90-448, title XIII, §1307, Aug. 1, 1968, 82 Stat. 576; Pub. L. 93-234, title I, §109, Dec. 31, 1973, 87 Stat. 980; Pub. L. 93-383, title VIII, §816(b), Aug. 22, 1974, 88 Stat. 739; 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)(1), Nov. 5, 1990, 104 Stat. 1388-24; Pub. L. 102-550, title IX, §928, Oct. 28, 1992, 106 Stat. 3886; Pub. L. 112-123, §2(a), May 31, 2012, 126 Stat. 365; Pub. L. 112-141, div. F, title II, §§100205(a)(1), (b), 100238(b)(1), July 6, 2012, 126 Stat. 917, 918, 958; Pub. L. 113-89, §§3(a)(1), 14, 15, 19, Mar. 21, 2014, 128 Stat. 1021, 1026, 1027.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2), (d), (e), and (h)(1)(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

2014—Subsec. (a)(1)(A). Pub. L. 113-89, §14, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “based on consideration of the risk involved and accepted actuarial principles, and”.

Subsec. (a)(2)(E)(ii). Pub. L. 113-89, §15, substituted “50 percent” for “30 percent”.

Subsec. (e). Pub. L. 113-89, §19(a)(3), inserted before period at end “Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds.”

Pub. L. 113-89, §19(a)(1), (2), inserted “or reconstruction” after “construction” in first sentence and amended second sentence generally. Prior to amendment, second sentence read as follows: “The Administrator shall find that adequate progress on the construction of a flood protection system as required herein has been only if (1) 100 percent of the project cost of the system has been authorized, (2) at least 60 percent of the project cost of the system has been appropriated, (3) at least 50 percent of the project cost of the system has been expended, and (4) the system is at least 50 percent completed.”

Subsec. (f). Pub. L. 113-89, §19(b), amended first sentence generally. Prior to amendment, first sentence

<sup>1</sup> So in original.

<sup>2</sup> So in original. Probably means “Administrator”.

read as follows: “Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so.”

Subsec. (g). Pub. L. 113-89, §3(a)(1), redesignated pars. (3) and (4) as (1) and (2), respectively, substituted “, unless the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage” for “as a result of the deliberate choice of the holder of such policy” in par. (1) as redesignated, and struck out former pars. (1) and (2), which read as follows:

“(1) any property not insured by the flood insurance program as of July 6, 2012;

“(2) any property purchased after July 6, 2012;”.

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

Subsec. (a)(1)(B)(iv). Pub. L. 112-141, §100205(b), added cl. (iv).

Subsec. (a)(2). Pub. L. 112-141, §100205(a)(1)(A), substituted “for—” for “for any residential property which is not the primary residence of an individual; and” and added subpars. (A) to (E).

Pub. L. 112-123 inserted “, except that the Administrator shall not estimate rates under this paragraph for any residential property which is not the primary residence of an individual” before “; and”.

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

Subsecs. (g), (h). Pub. L. 112-141, §100205(a)(1)(B), added subsecs. (g) and (h).

1992—Subsec. (f). Pub. L. 102-550 added subsec. (f).

1990—Subsec. (a)(1)(B)(iii). Pub. L. 101-508, §2302(e)(1)(A)–(C), added cl. (iii).

Subsec. (a)(2). Pub. L. 101-508, §2302(e)(1)(D), inserted before semicolon “, and which, together with a fee charged to policyholders that shall not be not subject to any agents’ commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 4101 of this title)”.

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

1974—Subsec. (e). Pub. L. 93-383 added subsec. (e).

1973—Subsec. (d). Pub. L. 93-234 added subsec. (d).

#### EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-141, div. F, title II, §100205(a)(2), July 6, 2012, 126 Stat. 918, provided that: “The amendments made by paragraph (1) [amending this section] shall become effective 90 days after the date of enactment of this Act [July 6, 2012].”

#### EFFECTIVE DATE

Section effective 120 days following Aug. 1, 1968, or such later date prescribed by the Secretary but in no event more than 180 days following Aug. 1, 1968, see section 1377 of Pub. L. 90-448, set out as a note under section 4001 of this title.

#### 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 Agen-

cy, 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.

#### REPEAL OF CERTAIN RATE INCREASES

Pub. L. 113-89, §3, Mar. 21, 2014, 128 Stat. 1021, provided that:

“(a) REPEAL.—

“(1) IN GENERAL.—[Amended this section.]

“(2) EFFECTIVE DATE.—The Administrator [of the Federal Emergency Management Agency] shall make available such rate tables, as necessary to implement the amendments made by paragraph (1) as if it were enacted as part of the Biggert-Waters Flood Insurance Reform Act of 2012 ([subtitle A of title II of div. F of] Public Law 112-141; 126 Stat. 957 [sic]).

“(3) IMPLEMENTATION, COORDINATION, AND GUIDANCE.—

“(A) FACILITATION OF TIMELY REFUNDS.—To ensure the participation of Write Your Own companies (as such term is defined in section 100202(a) of the Biggert-Waters Flood Insurance Reform Act of 2012 (42 U.S.C. 4004(a)), the Administrator and the Federal Emergency Management Agency shall consult with Write Your Own companies throughout the development of guidance and rate tables necessary to implement the provisions of and the amendments made by this Act [see Short Title of 2014 Amendment note set out under section 4001 of this title].

“(B) IMPLEMENTATION AND GUIDANCE.—The Administrator shall issue final guidance and rate tables necessary to implement the provisions of and the amendments made by this Act not later than eight months following the date of the enactment of this Act [Mar. 21, 2014]. Write Your Own companies, in coordination with the Federal Emergency Management Agency, shall have not less than six months but not more than eight months following the issuance of such final guidance and rate tables to implement the changes required by such final guidance and rate tables.

“(4) REFUND OF EXCESS PREMIUM CHARGES COLLECTED.—The Administrator shall refund directly to insureds any premiums for flood insurance coverage under the National Flood Insurance Program [defined as the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.)] collected in excess of the rates required under the provisions of and amendments made by this section [amending this section]. To allow for necessary and appropriate implementation of such provisions and amendments, any premium changes necessary to implement such provisions and amendments, including any such premium refund due to policy holders, which shall be paid directly by the National Flood Insurance Program, shall not be charged or paid to policyholders by the National Flood Insurance Program until after the Administrator issues guidance and makes available such rate tables to implement the provisions of and amendments made by this Act.

“(b) ASSUMPTION OF POLICIES AT EXISTING PREMIUM RATES.—The Administrator shall provide that the purchaser of a property that, as of the date of such purchase, is covered under an existing flood insurance policy under this title [probably means the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq.] may assume such existing policy and coverage for the remainder of the term of the policy at the chargeable premium rates under such existing policy. Such rates shall continue with respect to such property until the implementation of subsection (a).”

#### CHANGES IN RATES RESULTING FROM PUB. L. 113-89

Pub. L. 113-89, §31(a), Mar. 21, 2014, 128 Stat. 1035, provided that: “Not later than the date that is 6 months

before the date on which any change in risk premium rates for flood insurance coverage under the National Flood Insurance Program [defined as the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.)] resulting from this Act [see Short Title of 2014 Amendment note set out under section 4001 of this title] or any amendment made by this Act is implemented, the Administrator [of the Federal Emergency Management Agency] shall make publicly available the rate tables and underwriting guidelines that provide the basis for the change.”

**ELIGIBILITY FOR FLOOD INSURANCE FOR PERSONS RESIDING IN COMMUNITIES THAT HAVE MADE ADEQUATE PROGRESS ON THE RECONSTRUCTION OR IMPROVEMENT OF A FLOOD PROTECTION SYSTEM**

Pub. L. 112-141, div. F, title II, §100230, July 6, 2012, 126 Stat. 946, provided that:

“(a) **ELIGIBILITY FOR FLOOD INSURANCE COVERAGE.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law (including section 1307(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(e))), a person residing in a community that the Administrator determines has made adequate progress on the reconstruction or improvement of a flood protection system that will afford flood protection for a 100-year floodplain (without regard to the level of Federal funding of or participation in the construction, reconstruction, or improvement), shall be eligible for flood insurance coverage under the National Flood Insurance Program—

“(A) if the person resides in a community that is a participant in the National Flood Insurance Program; and

“(B) at a risk premium rate that does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed.

“(2) **ADEQUATE PROGRESS.**—

“(A) **RECONSTRUCTION OR IMPROVEMENT.**—For purposes of paragraph (1), the Administrator shall determine that a community has made adequate progress on the reconstruction or improvement of a flood protection system if—

“(i) 100 percent of the project cost has been authorized;

“(ii) not less than 60 percent of the project cost has been secured or appropriated;

“(iii) not less than 50 percent of the flood protection system has been assessed as being without deficiencies; and

“(iv) the reconstruction or improvement has a project schedule that does not exceed 5 years, beginning on the date on which the reconstruction or construction of the improvement commences.

“(B) **CONSIDERATIONS.**—In determining whether a flood protection system has been assessed as being without deficiencies, the Administrator shall consider the requirements under section 65.10 of chapter 44, Code of Federal Regulations, or any successor thereto.

“(C) **DATE OF COMMENCEMENT.**—For purposes of subparagraph (A)(iv) of this paragraph and subsection (b)(2)(B), the date of commencement of the reconstruction or improvement of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act [July 6, 2012] shall be deemed to be the date on which the owner of the flood protection system submits a request under paragraph (3).

“(3) **REQUEST FOR DETERMINATION.**—The owner of a flood protection system that is undergoing reconstruction or improvement on the date of enactment of this Act [July 6, 2012] may submit to the Administrator a request for a determination under paragraph (2) that the community in which the flood protection system is located has made adequate progress on the reconstruction or improvement of the flood protection system.

“(4) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to prohibit the Adminis-

trator from making a determination under paragraph (2) for any community in which a flood protection system is not undergoing reconstruction or improvement on the date of enactment of this Act.

“(b) **TERMINATION OF ELIGIBILITY.**—

“(1) **ADEQUATE CONTINUING PROGRESS.**—The Administrator shall issue rules to establish a method of determining whether a community has made adequate continuing progress on the reconstruction or improvement of a flood protection system that includes—

“(A) a requirement that the Administrator shall—

“(i) consult with the owner of the flood protection system—

“(I) 6 months after the date of a determination under subsection (a);

“(II) 18 months after the date of a determination under subsection (a); and

“(III) 36 months after the date of a determination under subsection (a); and

“(ii) after each consultation under clause (i), determine whether the reconstruction or improvement is reasonably likely to be completed in accordance with the project schedule described in subsection (a)(2)(A)(iv); and

“(B) a requirement that, if the Administrator makes a determination under subparagraph (A)(ii) that reconstruction or improvement is not reasonably likely to be completed in accordance with the project schedule, the Administrator shall—

“(i) not later than 30 days after the date of the determination, notify the owner of the flood protection system of the determination and provide the rationale and evidence for the determination; and

“(ii) provide the owner of the flood protection system the opportunity to appeal the determination.

“(2) **TERMINATION.**—The Administrator shall terminate the eligibility for flood insurance coverage under subsection (a) for persons residing in a community with respect to which the Administrator made a determination under subsection (a) if—

“(A) the Administrator determines that the community has not made adequate continuing progress; or

“(B) on the date that is 5 years after the date on which the reconstruction or construction of the improvement commences, the project has not been completed.

“(3) **WAIVER.**—A person whose eligibility would otherwise be terminated under paragraph (2)(B) shall continue to be eligible to purchase flood insurance coverage described in subsection (a) if the Administrator determines—

“(A) the community has made adequate continuing progress on the reconstruction or improvement of a flood protection system; and

“(B) there is a reasonable expectation that the reconstruction or improvement of the flood protection system will be completed not later than 1 year after the date of the determination under this paragraph.

“(4) **RISK PREMIUM RATE.**—If the Administrator terminates the eligibility of persons residing in a community to purchase flood insurance coverage described in subsection (a), the Administrator shall establish an appropriate risk premium rate for flood insurance coverage under the National Flood Insurance Program for persons residing in the community that purchased flood insurance coverage before the date on which the termination of eligibility takes effect, taking into consideration the then-current state of the flood protection system.

“(c) **ADDITIONAL AUTHORITY.**—

“(1) **ADDITIONAL AUTHORITY.**—Notwithstanding subsection (a), in exceptional and exigent circumstances, the Administrator may, in the Administrator’s sole discretion, determine that a person residing in a com-

munity, which is a participant in the National Flood Insurance Program, that has begun reconstruction or improvement of a flood protection system that will afford flood protection for a 100-year floodplain (without regard to the level of Federal funding of or participation in the reconstruction or improvement) shall be eligible for flood insurance coverage under the National Flood Insurance Program at a risk premium rate that does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed, provided—

“(A) the community makes a written request for the determination setting forth the exceptional and exigent circumstances, including why the community cannot meet the criteria for adequate progress set forth in under [sic] subsection (a)(2)(A) and why immediate relief is necessary;

“(B) the Administrator submits a written report setting forth findings of the exceptional and exigent circumstances on which the Administrator based an affirmative determination to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives not later than 15 days before making the determination; and

“(C) the eligibility for flood insurance coverage at a risk premium rate determined under this subsection terminates no later than 1 year after the date on which the Administrator makes the determination.

“(2) LIMITATION.—Upon termination of eligibility under paragraph (1)(C), a community may submit another request pursuant to paragraph (1)(A). The Administrator may make no more than two determinations under paragraph (1) with respect to persons residing within any single requesting community.

“(3) TERMINATION.—The authority provided under paragraphs (1) and (2) shall terminate two years after the enactment of this Act [July 6, 2012].”

[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. 517, 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 ACTUARILY 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 estimated 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).

##### (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.