

under section 701n of this title with respect to such flood events.

**(2) Natural feature; nature-based feature**

The terms “natural feature” and “nature-based feature” have the meanings given those terms in section 2289a of this title.

**(b) Program**

**(1) In general**

The Secretary is authorized to carry out a program to study, design, and construct water resources development projects through measures involving, among other things, strengthening, raising, extending, realigning, or otherwise modifying existing flood control works, designing new works, and incorporating natural features, nature-based features, or non-structural features, as appropriate to provide flood and coastal storm risk management to affected communities.

**(2) Considerations**

In carrying out paragraph (1), the Secretary shall, to the maximum extent practical, review and, where appropriate, incorporate natural features or nature-based features, or a combination of such features and non-structural features, that avoid or reduce at least 50 percent of flood or storm damages in one or more of the alternatives included in the final alternatives evaluated.

**(3) Construction**

**(A) In general**

The Secretary may carry out a project described in paragraph (1) without further congressional authorization if—

(i) the Secretary determines that the project—

- (I) is advisable to reduce the risk of flooding for an affected community; and
- (II) produces benefits that are in excess of the estimated costs; and

(ii) the Federal share of the cost of the construction does not exceed \$17,500,000.

**(B) Specific authorization**

If the Federal share of the cost of a project described in paragraph (1) exceeds \$17,500,000, the Secretary shall submit the project recommendation to Congress for authorization prior to construction, and shall include the project recommendation in the next annual report submitted under section 2282d of this title.

**(C) Financing**

**(i) Contributions**

If, based on a study carried out pursuant to paragraph (1), the Secretary determines that a project described in paragraph (1) will not produce benefits greater than cost, the Secretary shall allow the affected community to pay, or provide contributions equal to, an amount sufficient to make the remaining costs of design and construction of the project equal to the estimated value of the benefits of the project.

**(ii) Effect on non-Federal share**

Amounts provided by an affected community under clause (i) shall be in addi-

tion to any payments or contributions the affected community is required to provide toward the remaining costs of design and construction of the project under section 2213 of this title.

**(4) Ability to pay**

**(A) In general**

Any cost-sharing agreement for a project entered into pursuant to this section shall be subject to the ability of the affected community to pay.

**(B) Determination**

The ability of any affected community to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

**(C) Effect of reduction**

Any reduction in the non-Federal share of the cost of a project described in paragraph (1) as a result of a determination under this paragraph shall not be included in the Federal share for purposes of subparagraphs (A) and (B) of paragraph (3).

(Pub. L. 116-260, div. AA, title I, § 119, Dec. 27, 2020, 134 Stat. 2632.)

**Statutory Notes and Related Subsidiaries**

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of div. AA of Pub. L. 116-260, set out as a note under section 2201 of this title.

**§ 701o. Omitted**

**Editorial Notes**

CODIFICATION

Section, act June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175, related to conditions precedent on unauthorized projects and modifications. Similar provisions were contained in act July 24, 1946, ch. 596, § 2, 60 Stat. 641. See section 701b-8 of this title.

**§ 701p. Railroad bridge alterations at Federal expense**

On and after July 24, 1946, for authorized flood protection projects which include alterations of railroad bridges the Chief of Engineers is authorized to include at Federal expense the necessary alterations of railroad bridges and approaches in connection therewith.

(July 24, 1946, ch. 596, § 3, 60 Stat. 642.)

**§ 701q. Repair and protection of highways, railroads, and utilities damaged by operation of dams or reservoir**

Whenever the Chief of Engineers shall find that any highway, railway, or utility has been or is being damaged or destroyed by reason of the operation of any dam or reservoir project under the control of the Department of the Army, he may utilize any funds available for the construction, maintenance, or operation of the project involved for the repair, relocation, restoration, or protection of such highway, railway, or utility: *Provided*, That this section shall not apply to highways, railways, and utilities