

NATIONAL FLOOD INSURANCE PROGRAM POLICYHOLDER
PROTECTION ACT OF 2017

JULY 11, 2017.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 2868]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2868) to protect National Flood Insurance Program policyholders from unreasonable premium rates and to require the Program to consider the unique characteristics of urban properties, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE AND SUMMARY

Introduced by Representative Lee Zeldin on June 8, 2017, H.R. 2868, the “National Flood Insurance Program Policyholder Protection Act of 2017,” amends the National Flood Insurance Act of 1968 to require a maximum 1–4 residential premium of \$10,000 and provide for mitigation credit for certain mitigation activities unique in urban areas.

BACKGROUND AND NEED FOR LEGISLATION

GENERAL OVERVIEW

Floods are among the most frequently occurring and costly natural disasters. Most declarations of federal disasters by the Federal Emergency Management Agency (FEMA) are related to flooding. Yet despite the frequency and severity of losses that result from flooding, the private insurance market generally did not provide insurance for flooding; when it did, insurance for flood-related dam-

age can be expensive because the properties most at-risk tend to be highly concentrated geographically and the potential risk of economic losses is extremely high.

To supplement the availability of flood insurance in the private market, Congress, in 1968, created the National Flood Insurance Program (NFIP), which is administered by FEMA and provides flood insurance to approximately 5.1 million policyholders across the country. In exchange for premiums paid by policyholders, NFIP makes federally backed flood insurance available to homeowners and other property owners (for example, businesses, churches, and farmers) in these communities.

Homeowners with mortgages held by federally regulated lenders on property in participating communities identified by FEMA to be in Special Flood Hazard Areas are required to purchase flood insurance (mandatory purchase requirement). NFIP coverage limits vary by program (regular or emergency) and property type (for example, residential or nonresidential). In NFIP's regular program, the maximum coverage limits for residential policyholders are \$250,000 for buildings and \$100,000 for contents. For commercial policyholders (that is, those with policies for nonresidential properties), the maximum coverage limit is \$500,000 per building and \$500,000 for contents owned by the building owner. There is additional coverage for contents owned by the tenants.

Residents and business owners in over 22,000 participating communities across the United States and its territories are able to buy NFIP flood insurance policies through insurance agents and companies that participate as third-party administrators in the "Write Your Own" (WYO) program. The WYO program allows private insurance carriers to issue and service government underwritten and taxpayer backed NFIP policies with no private financial liability from the insurer. Insurance companies that participate in the WYO program receive an expense allowance for policies they write and the claims they process. In addition, their agents earn a commission for the policies they sell. The federal government, however, retains responsibility for managing the risk and paying claims, as well as covering any litigation costs should a WYO insurer be sued in court.

Property owners can purchase flood insurance through the NFIP only if their communities participate in the NFIP. To participate in the NFIP, a community must agree to abide by certain statutory provisions intended to mitigate the risk of flooding, such as building codes that require new structures built in floodplains (high-risk areas) to be protected against flooding or to be elevated above the 100-year floodplain.

As of June 5, 2017, the NFIP has an outstanding debt of \$24.6 billion borrowed from taxpayers, with roughly \$1.1 billion available cash-on-hand and \$5.825 billion remaining of its total temporary \$30.425 billion Treasury borrowing authority. The NFIP's debt results primarily from its borrowing to pay claims relating to the Gulf Coast hurricanes in 2005 and Superstorm Sandy in October 2012. This borrowing stems from a structural imbalance in how the NFIP measures and prices for risk, resulting in only 46 percent of premium dollars collected in 2016 being available for the payments of claims. With such a low portion of premiums available to pay claims, the pressure on the NFIP to borrow from taxpayers in-

creases. The NFIP's structural budget crisis has required periodic legislation to increase its borrowing authority, the most recent example of which occurred in January 2013 when Congress increased the NFIP's borrowing authority by \$9.7 billion—from \$20.725 billion to its current \$30.425 billion level.

H.R. 2868 would address affordability concerns raised by constituents by limiting the NFIP risk premium of any single-family residential property to \$10,000 a year. In addition, this bill would authorize FEMA to provide NFIP policyholders who are not eligible for preferred risk premium rates with credits for a policyholder that can be used to reduce their premium rates if they mitigate certain flood risks on their property. These mitigation efforts could include using innovative mitigation techniques for buildings in dense urban environments and the elevation of mechanical systems.

In dense urban areas, raising a structure to mitigate it from flooding may not be an option. However, in many of these buildings, the heating, ventilation and air conditioning (HVAC) units are on the ground floor and at risk of damage from flood waters. H.R. 2868 would authorize FEMA to authorize premium discounts if HVAC and other mechanical systems are moved to higher level. Finally, H.R. 2868 requires a FEMA study on the feasibility of offering NFIP coverage of individual dwelling units in cooperative housing developments to address unique housing issues in certain geographical areas where cooperative housing is a significant share of the housing market.

HEARINGS

The Committee on Financial Services' Subcommittee on Housing & Insurance held two hearings examining matters relating to H.R. 2868 on March 9, 2017 and March 16, 2017. The Committee on Financial Services held a hearing examining matters relating to H.R. 2868 on June 7, 2017.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 15, 2017 to consider H.R. 2868. The Committee ordered H.R. 2868 to be reported favorably to the House, without amendment, by a recorded vote of 53 yeas to 0 nays (Recorded vote no. FC-58), a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 53 yeas to 0 nays (Recorded vote no. FC-58]), a quorum being present.

Present	Representative	Yeas	Nays
	Mr. HENSARLING, <i>Chairman</i>	✓	
	Mr. MCHENRY	✓	
	Mr. KING	✓	
	Mr. ROYCE	✓	
	Mr. LUCAS	✓	
	Mr. PEARCE	✓	
	Mr. POSEY	✓	
	Mr. LUETKEMEYER	✓	
	Mr. HUIZENGA	✓	
	Mr. DUFFY	✓	
	Mr. STIVERS	✓	
	Mr. HULTGREN	✓	
	Mr. ROSS	✓	
	Mr. PITTENGER	✓	
	Mrs. WAGNER	✓	
	Mr. BARR	✓	
	Mr. ROTHFUS	✓	
	Mr. MESSER	✓	
	Mr. TIPTON	✓	
	Mr. WILLIAMS	✓	
	Mr. POLIQUIN	✓	
	Mrs. LOVE	✓	
	Mr. HILL	✓	
	Mr. EMMER	✓	
	Mr. ZELDIN	✓	
	Mr. TROTT	✓	
	Mr. LOUDERMILK	✓	
	Mr. MOONEY	✓	
	Mr. MACARTHUR	✓	
	Mr. DAVIDSON	✓	
	Mr. BUDD	✓	
	Mr. KUSTOFF	✓	
	Ms. TENNEY	✓	
	Mr. HOLLINGSWORTH	✓	
	Ms. WATERS, <i>Ranking Member</i>	✓	
	Mrs. MALONEY	✓	
	Ms. VELÁZQUEZ	✓	
	Mr. SHERMAN	✓	
	Mr. MEEKS	✓	
	Mr. CAPUANO	✓	
	Mr. CLAY	✓	
	Mr. LYNCH	✓	
	Mr. SCOTT	✓	
	Mr. GREEN	✓	
	Mr. CLEAVER	✓	
	Ms. MOORE	✓	
	Mr. ELLISON	✓	
	Mr. PERLMUTTER	✓	
	Mr. HIMES	✓	
	Mr. FOSTER	✓	
	Mr. KILDEE	✓	
	Mr. DELANEY	✓	
	Ms. SINEMA	✓	
	Mrs. BEATTY	✓	
	Mr. HECK	✓	
	Mr. VARGAS	✓	
	Mr. GOTTHEIMER	✓	
	Mr. GONZALEZ	✓	
	Mr. CRIST	✓	
	Mr. KIHUEN	✓	

Committee on Financial Services

115th CongressDATE: 6/15/17Measure HR 2868Amendment No. MTA

Offered by: _____

Agreed To	Yes	No	Wdm
	✓		

Voice Vote	Yeas	Nays	Prsnt
	53	0	

Record vote no. FC- 58

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 2868 will protect NFIP policyholders by providing for a maximum premium on 1–4 residential properties at \$10,000 and provide for mitigation credit for certain mitigation activities unique in urban areas.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 7, 2017.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2868, the National Flood Insurance Program Policyholder Protection Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 2868—National Flood Insurance Program Policyholder Protection Act of 2017

Summary: H.R. 2868 would require the Federal Emergency Management Agency (FEMA) to cap annual premiums charged for certain National Flood Insurance Program (NFIP) policies at \$10,000 for five years. The cap would be adjusted for inflation every five years. The bill also would require FEMA to update guidelines on methods to mitigate flood prone properties and to conduct a study on the feasibility of providing NFIP coverage to individual dwelling units in cooperative housing projects.

CBO estimates that enacting H.R. 2868 would increase direct spending by \$68 million over the 2018–2027 period. Because enacting H.R. 2868 would affect direct spending, pay-as-you-go procedures apply. Enacting the legislation would not affect revenues. CBO estimates that implementing the bill would have no significant effect on spending subject to appropriation in any year.

CBO estimates that enacting H.R. 2868 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2868 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 2868 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—												
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2022	2017– 2027
INCREASES IN DIRECT SPENDING													
Estimated Budget Authority	0	2	3	4	5	7	6	7	9	11	14	21	68
Estimated Outlays	0	2	3	4	5	7	6	7	9	11	14	21	68

Basis of estimate: For this estimate, CBO assumes that H.R. 2868 will be enacted near the end of fiscal year 2017 and that the required changes in NFIP premiums would go into effect in the middle of fiscal year 2018.

Background

Under current law, property owners can buy flood insurance through the NFIP. Owners of properties that are located within an area designated as having at least a 1 percent chance of being flooded in any year (known as a Special Flood Hazard Area, or SFHA) and that are financed by a federally regulated lending institution, government-sponsored enterprise for housing, or federal lender are required to carry flood insurance. Property owners not receiving financing from those entities or that are located outside a SFHA may purchase flood insurance from a private carrier or the NFIP at their discretion.

Property owners who buy insurance through the NFIP pay annual premiums which are deposited into the National Flood Insurance Fund and are used to pay flood damage claims submitted by policyholders. Those premiums and payments are not subject to annual appropriation.

Cap on Premiums

H.R. 2868 would require FEMA to cap NFIP premiums for all residential properties with four or fewer residences at \$10,000 for the first five years following enactment. Every five years, the cap would be adjusted for inflation. According to data from FEMA, about 800 NFIP policies for single and multi-family homes (about 0.02 percent of all single and multi-family policies in force) had premiums above \$10,000 in 2017.

Based on information from FEMA on current NFIP premiums and accounting for anticipated inflation and anticipated growth in the number and cost of NFIP policies, CBO estimates that capping premiums for single and multi-family home policies at \$10,000 would lead to a reduction in NFIP receipts, which are recorded as reductions in direct spending. In total CBO expects that the policy would increase direct spending by \$68 million over the 2018–2027 period. After 5 years, in mid-2022, CBO estimates the cap in policy premiums would be adjusted to \$11,200. That would cause the loss of premium collections in 2023 to be slightly smaller than in 2022 because the higher cap on premiums would affect fewer policies in that year. In 2016 the NFIP collected \$3.5 billion in policy premiums.

Other Requirements

H.R. 2868 also would direct FEMA to reduce the premiums of NFIP policyholders who undergo flood mitigation activities. Under current law, FEMA reduces premiums for structures that are improved to better guard against flooding; therefore, CBO estimates that implementing this requirement would have no effect on the federal budget.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 2868, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON JUNE 15, 2017

	By fiscal year, in millions of dollars—													
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2022	2017– 2027	
	NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	2	3	4	5	7	6	7	9	11	14	21	68	

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 2868 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: H.R. 2868 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Robert Reese; Impact on state, local, and tribal governments: Rachel Austin; Impact on the private sector: Logan Smith.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 2868 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 2868 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee states that H.R. 2868 contains no directed rulemaking.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 1. Short title

This Act may be cited as the “National Flood Insurance Program Policyholder Protection Act of 2017.”

Sec. 2. Cap on premiums

H.R. 2868 limits the chargeable risk premium of any single family residential property to \$10,000 per year, adjusted for inflation every five years.

Sec. 3. Premium rates for certain mitigated properties

H.R. 2868 authorizes the FEMA Administrator to provide policyholders who are not eligible for preferred risk rate method premiums with credits they can use to reduce their risk premium rates through approved actions to mitigate the flood risk of their

property, including innovative mitigation techniques for buildings in dense urban environments and the elevation of mechanical systems.

Sec. 4. Study of flood insurance coverage for units in cooperative housing

H.R. 2868 requires the FEMA Administrator to conduct a study on the feasibility of offering NFIP coverage of individual dwelling units in cooperative housing developments.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

NATIONAL FLOOD INSURANCE ACT OF 1968

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TITLE XIII—NATIONAL FLOOD INSURANCE

* * * * *

CHAPTER I—THE NATIONAL FLOOD INSURANCE PROGRAM

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ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 1308. (a) On the basis of estimates made under section 1307 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 1305 (at less than the estimated risk premium rates under section 1307(a)(1), where necessary), and

(2) the terms and conditions under which, and the areas (including subdivisions thereof) within which such rates shall apply.

(b) 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 title;

(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 1307(a), to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360);

(4) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates under section 1307(a)(1) and the estimated rates under section 1307(a)(2); 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 1307(a)(1) 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 1360 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.

(d) With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 1307(a) or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Administrator. The Administrator shall deposit the sum in the National Flood Insurance Fund established under section 1310.

(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—Except with respect to properties described under paragraph (2) of subsection (c), and notwithstanding any other provision of this title—

(1)(A) *subject to subparagraph (B)*, the chargeable risk premium rate for flood insurance [under this title for any property] *under this title—*

(i) *for any property* may not be increased by more than 18 percent each year, [except—] *except as provided in paragraph (4); and*

(ii) *for any residential property having 4 or fewer residences and for which a valid National Flood Insurance Program Elevation Certificate has been filed with the National Flood Insurance Program within the preceding calendar year, may not exceed \$10,000 in any single year, except that such amount (as it may have been previously adjusted) shall be adjusted for inflation by the Administrator upon the expiration of the 5-year period beginning upon the enactment of the National Flood Insurance Program Policyholder Protection Act of 2017 and upon the expiration of*

each successive 5-year period thereafter, in accordance with an inflationary index selected by the Administrator.

[(A)] as provided in paragraph (4);

[(B)] in the case of property identified under section 1307(g); or

[(C)] in the case of a property that—

(B) The limitations under clauses (i) and (ii) of subparagraph (A) shall not apply in the case of—

(i) a property identified under section 1307(g); or

(ii) a property that—

[(i)] *(I)* is located in a community that has experienced a rating downgrade under the community rating system program carried out under section 1315(b);

[(ii)] *(II)* is covered by a policy with respect to which the policyholder has—

[(I)] *(aa)* decreased the amount of the deductible; or

[(II)] *(bb)* increased the amount of coverage; or

[(iii)] *(III)* was misrated;

(2) the chargeable risk premium rates for flood insurance under this title for any properties initially rated under section 1307(a)(2) within any single risk classification, excluding properties for which the chargeable risk premium rate is not less than the applicable estimated risk premium rate under section 1307(a)(1), shall be increased by an amount that results in an average of such rate increases for properties within the risk classification during any 12-month period of not less than 5 percent of the average of the risk premium rates for such properties within the risk classification upon the commencement of such 12-month period;

(3) the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 15 percent of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period; and

(4) the chargeable risk premium rates for flood insurance under this title for any properties described in subparagraphs (A) through (E) of section 1307(a)(2) shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (3).

(f) **ADJUSTMENT OF PREMIUM.**—Notwithstanding any other provision of law, if the Administrator determines that the holder of a flood insurance policy issued under this Act is paying a lower premium than is required under this section due to an error in the flood plain determination, the Administrator may only prospectively charge the higher premium rate.

(g) **FREQUENCY OF PREMIUM COLLECTION.**—With respect to any chargeable premium rate prescribed under this section, the Administrator shall provide policyholders that are not required to escrow

their premiums and fees for flood insurance as set forth under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) with the option of paying their premiums annually or monthly.

(h) **RULE OF CONSTRUCTION.**—For purposes of this section, the calculation of an “average historical loss year”—

(1) includes catastrophic loss years; and

(2) shall be computed in accordance with generally accepted actuarial principles.

(i) **RATES FOR PROPERTIES NEWLY MAPPED INTO AREAS WITH SPECIAL FLOOD HAZARDS.**—Notwithstanding subsection (f), the premium rate for flood insurance under this title that is purchased on or after the date of the enactment of this subsection—

(1) on a property located in an area not previously designated as having special flood hazards and that, pursuant to any issuance, revision, updating, or other change in a flood insurance map, becomes designated as such an area; and

(2) where such flood insurance premium rate is calculated under subsection (a)(1) of section 1307 (42 U.S.C. 4014(a)(1)), shall for the first policy year be the preferred risk premium for the property and upon renewal shall be calculated in accordance with subsection (e) of this section until the rate reaches the rate calculated under subsection (a)(1) of section 1307.

(j) **PREMIUMS AND REPORTS.**—In setting premium risk rates, in addition to striving to achieve the objectives of this title the Administrator shall also strive to minimize the number of policies with annual premiums that exceed one percent of the total coverage provided by the policy. For any policies premiums that exceed this one percent threshold, the Administrator shall report such exceptions to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(k) **CONSIDERATION OF MITIGATION METHODS.**—In calculating the risk premium rate charged for flood insurance for a property under this section, the Administrator **[shall take into account]** *shall*—

(1) *take into account* the implementation of any mitigation method identified by the Administrator in the guidance issued under section 1361(d) (42 U.S.C. 4102(d))**[.]**; and

(2) *offer a reduction of the risk premium rate charged to a policyholder, as determined by the Administrator, if the policyholder implements any mitigation method described in paragraph (1).*

(l) **CLEAR COMMUNICATIONS.**—The Administrator shall clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.

(m) **PROTECTION OF SMALL BUSINESSES, NON-PROFITS, HOUSES OF WORSHIP, AND RESIDENCES.**—

(1) **REPORT.**—Not later than 18 months after the date of the enactment of this section and semiannually thereafter, the Administrator shall monitor and report to Committee on Financial Services of the House Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Administrator’s assessment of the impact, if any, of the rate increases required under subparagraphs (A) and (D) of section

1307(a)(2) and the surcharges required under section 1308A on the affordability of flood insurance for—

- (A) small businesses with less than 100 employees;
- (B) non-profit entities;
- (C) houses of worship; and
- (D) residences with a value equal to or less than 25 per cent of the median home value of properties in the State in which the property is located.

(2) RECOMMENDATIONS.—If the Administrator determines that the rate increases or surcharges described in paragraph (1) are having a detrimental effect on affordability, including resulting in lapsed policies, late payments, or other criteria related to affordability as identified by the Administrator, for any of the properties identified in subparagraphs (A) through (D) of such paragraph, the Administrator shall, not later than 3 months after making such a determination, make such recommendations as the Administrator considers appropriate to improve affordability to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

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CHAPTER III—COORDINATION OF FLOOD INSURANCE WITH LAND-MANAGEMENT PROGRAMS IN FLOOD-PRONE AREAS

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CRITERIA FOR LAND MANAGEMENT AND USE

SEC. 1361. (a) The Administrator is authorized to carry out studies and investigations, utilizing to the maximum extent practicable the existing facilities and services of other Federal departments or agencies, and State and local governmental agencies, and any other organizations, with respect to the adequacy of State and local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention, and may enter into any contracts, agreements or other appropriate arrangements to carry out such authority.

(b) Such studies and investigations shall include, but not be limited to, laws, regulations or ordinances relating to encroachments and obstructions on stream channels and floodways, the orderly development and use of flood plains of rivers or streams, floodway encroachment lines, and flood plain zoning, building codes, building permits, and subdivision or other building restrictions.

(c) On the basis of such studies and investigations, and such other information as he deems necessary, the Administrator shall from time to time develop comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will—

- (1) construct the development of land which is exposed to flood damage where appropriate,
- (2) guide the development of proposed construction away from locations which are threatened by flood hazards,
- (3) assist in reducing damage caused by floods, and
- (4) otherwise improve the long-range land management and use of flood prone areas,

and he shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of such criteria and the adoption and enforcement of such measures.

(d) FLOOD MITIGATION METHODS FOR BUILDINGS.—The Administrator shall establish guidelines for property owners that—

(1) provide alternative methods of mitigation, other than building elevation, to reduce flood risk to residential buildings that cannot be elevated due to their structural characteristics, including—

(A) types of building materials; **[and]**

(B) types of floodproofing; **[and]**

(C) *with respect to buildings in dense urban environments, methods that can be deployed on a block or neighborhood scale; and*

(D) *elevation of mechanical systems; and*

(2) inform property owners about how the implementation of mitigation methods described in paragraph (1) may affect risk premium rates for flood insurance coverage under the National Flood Insurance Program.

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