

115TH CONGRESS
1ST SESSION

S. _____

To reauthorize the National Flood Insurance Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CASSIDY (for himself and Mrs. GILLIBRAND) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To reauthorize the National Flood Insurance Program, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Flood Insurance Af-
5 fordability and Sustainability Act of 2017”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

Sec. 4. Extension of national flood insurance program.

2

TITLE I—ENHANCING THE SOLVENCY AND SUSTAINABILITY OF
THE NATIONAL FLOOD INSURANCE PROGRAM

Sec. 101. Risk transfer.

TITLE II—ENHANCING FLOOD INSURANCE AFFORDABILITY AND
ACCESSIBILITY

- Sec. 201. Use of premium surcharges.
 Sec. 202. Disclosure with respect to the affordability standard.
 Sec. 203. Increased cost of compliance.
 Sec. 204. Elevation certificates.
 Sec. 205. Mitigation provisions.
 Sec. 206. Home structure values.
 Sec. 207. Affordability vouchers.
 Sec. 208. Coverage limits.

TITLE III—AGREED VALUE PILOT PROGRAM

- Sec. 301. Short title.
 Sec. 302. Definitions.
 Sec. 303. Agreed Value Flood Protection Program.
 Sec. 304. Use of agreed value flood protection to satisfy requirement to purchase flood insurance to receive a mortgage loan.
 Sec. 305. Agreed Value Flood Protection Program Reserve Fund.
 Sec. 306. Rule of construction.

TITLE IV—PROVIDING PRIVATE MARKET ACCESS,
ACCOUNTABILITY, AND COMPETITION

- Sec. 401. Use of private flood insurance to satisfy mandatory purchase requirement.
 Sec. 402. Provision of private flood insurance by Write Your Own companies.
 Sec. 403. Availability of NFIP claims data.
 Sec. 404. Fees and surcharges for private flood insurance policies.
 Sec. 405. Pilot program.

TITLE V—MODERNIZING FLOOD MAPPING AND FLOOD RISK
ACCURACY

- Sec. 501. Reauthorization of National Flood Mapping Program.
 Sec. 502. Mapping standards and guidelines for nongovernmental entities.
 Sec. 503. Use of high-resolution mapping technology.
 Sec. 504. Protected areas.
 Sec. 505. Coastal flood models.

TITLE VI—ENHANCING NATIONAL FLOOD INSURANCE PROGRAM
TRANSPARENCY AND ACCOUNTABILITY

- Sec. 601. Deadline for approval of claims.
 Sec. 602. Flood insurance transparency, accountability, and reform.
 Sec. 603. Reports to Congress.

1 **SEC. 3. DEFINITIONS.**

2 In this Act—

1 (1) the term “Administrator” means the Ad-
2 ministrator of the Federal Emergency Management
3 Agency;

4 (2) the terms “Federal flood insurance” and
5 “private flood insurance” have the meanings given
6 those terms in section 102(b)(7) of the Flood Dis-
7 aster Protection Act of 1973 (42 U.S.C.
8 4012a(b)(7)), as amended by section 401(a)(1) of
9 this Act;

10 (3) the term “mandatory purchase require-
11 ment” means the requirement under subsections (a)
12 and (b) of section 102 of the Flood Disaster Protec-
13 tion Act of 1973 (42 U.S.C. 4012a), as amended by
14 section 401 of this Act, to have flood insurance cov-
15 erage;

16 (4) the term “National Flood Insurance Pro-
17 gram” means the program established under the Na-
18 tional Flood Insurance Act of 1968 (42 U.S.C. 4001
19 et seq.);

20 (5) the term “Write Your Own company”
21 means a company that participates in the Write
22 Your Own Program; and

23 (6) the term “Write Your Own Program”
24 means the cooperative undertaking between the in-
25 surance industry and the Federal Insurance and

1 Mitigation Administration that allows participating
2 property and casualty insurance companies to write
3 and service standard flood insurance policies.

4 **SEC. 4. EXTENSION OF NATIONAL FLOOD INSURANCE PRO-**
5 **GRAM.**

6 (a) **FINANCING.**—Section 1309(a) of the National
7 Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is
8 amended, in the first sentence, by striking “September 30,
9 2017” and inserting “September 30, 2027”.

10 (b) **PROGRAM EXPIRATION.**—Section 1319 of the Na-
11 tional Flood Insurance Act of 1968 (42 U.S.C. 4026) is
12 amended by striking “September 30, 2017” and inserting
13 “September 30, 2027”.

14 **TITLE I—ENHANCING THE SOL-**
15 **VENCY AND SUSTAINABILITY**
16 **OF THE NATIONAL FLOOD IN-**
17 **SURANCE PROGRAM**

18 **SEC. 101. RISK TRANSFER.**

19 Section 1345 of the National Flood Insurance Act of
20 1968 (42 U.S.C. 4081) is amended by striking subsection
21 (e) and inserting the following:

22 “(e) **RISK TRANSFER.**—

23 “(1) **IN GENERAL.**—The Administrator shall
24 annually transfer a portion of the risk associated

1 with the flood insurance program to the private rein-
2 surance or capital markets—

3 “(A) at rates and on terms determined by
4 the Administrator to be reasonable and appro-
5 priate; and

6 “(B) in an amount sufficient to—

7 “(i) maintain the ability of the pro-
8 gram to pay claims; and

9 “(ii) limit the exposure of the pro-
10 gram to potential catastrophic losses from
11 extreme events.

12 “(2) FORMS OF TRANSFER.—In carrying out
13 paragraph (1), the Administrator shall consider all
14 forms of risk transfer, including traditional reinsur-
15 ance, catastrophe bonds, collateralized reinsurance,
16 resilience bonds, and other insurance-linked securi-
17 ties, in order to—

18 “(A) maximize pricing competition and the
19 diversity of sources of capital; and

20 “(B) secure the best value for the flood in-
21 surance program.”.

1 **TITLE II—ENHANCING FLOOD**
2 **INSURANCE AFFORDABILITY**
3 **AND ACCESSIBILITY**

4 **SEC. 201. USE OF PREMIUM SURCHARGES.**

5 Chapter I of the National Flood Insurance Act of
6 1968 (42 U.S.C. 4011 et seq.) is amended—

7 (1) in section 1308A (42 U.S.C. 4015a)—

8 (A) by redesignating subsection (c) as sub-
9 section (d);

10 (B) by inserting after subsection (b) the
11 following:

12 “(c) USE OF SURCHARGES.—The Administrator shall
13 use any surcharge imposed and collected under subsection
14 (a) to help fund flood mitigation programs, including the
15 Predisaster Hazard Mitigation Program under section 203
16 of the Robert T. Stafford Disaster Assistance and Emer-
17 gency Relief Act (42 U.S.C. 5133) and the program estab-
18 lished under section 1366.”; and

19 (C) in subsection (d), as so redesignated,
20 by striking “Subsections (a) and (b)” and in-
21 serting “Subsections (a) through (c)”;

22 (2) in section 1310A(c) (42 U.S.C. 4017A(c)),
23 by striking paragraph (4).

1 **SEC. 202. DISCLOSURE WITH RESPECT TO THE AFFORD-**
2 **ABILITY STANDARD.**

3 Section 1308(j) of the National Flood Insurance Act
4 of 1968 (42 U.S.C. 4015(j)) is amended, in the second
5 sentence, by inserting “and shall include in the report the
6 number of those exceptions as of the date on which the
7 Administrator submits the report and the location of each
8 policyholder insured under those exceptions, organized by
9 county and State” after “of the Senate”.

10 **SEC. 203. INCREASED COST OF COMPLIANCE.**

11 (a) INCREASE IN LIMITATION ON LIABILITY.—Not
12 later than 180 days after the date of enactment of this
13 Act, the Administrator shall amend the Standard Flood
14 Insurance Policy set forth in Appendix A(1) to part 61
15 of title 44, Code of Federal Regulations, to—

16 (1) increase the limitation on liability relating
17 to “Coverage D—Increased Cost of Compliance”
18 from \$30,000 to \$75,000; and

19 (2) provide that 50 percent of the amount de-
20 scribed in paragraph (1) shall be available to the in-
21 sured without regard to whether making that
22 amount available to the insured would exceed the
23 overall policy limit of the insured.

24 (b) ELIGIBILITY ITEMS.—Section 1304(b) of the Na-
25 tional Flood Insurance Act of 1968 (42 U.S.C. 4011(b))
26 is amended—

1 (1) in paragraph (3), by striking “compliance
2 with the land use and control measures.” and insert-
3 ing “the implementation of such measures; and”;

4 (2) in paragraph (4), by redesignating subpara-
5 graphs (A) through (D) as clauses (i) through (iv),
6 respectively, and adjusting the margins accordingly;

7 (3) by redesignating paragraphs (1) through
8 (4) as subparagraphs (A) through (D), respectively,
9 and adjusting the margins accordingly;

10 (4) in the matter preceding subparagraph (A),
11 as so redesignated, by striking “cover the cost of im-
12 plementing measures that are consistent with land
13 use and control measures established by the commu-
14 nity under section 1361 for” and inserting “cover
15 the cost of—

16 “(1) implementing measures that are consistent
17 with land use and control measures established by
18 the community under section 1361 for”;

19 (5) in paragraph (1), as so designated—

20 (A) in subparagraph (C), as so redesign-
21 ated, by striking the period at the end and in-
22 serting “; and”; and

23 (B) in subparagraph (D)(iv), as so redesign-
24 ated, by striking the period at the end and in-
25 serting “; or”; and

1 (6) by inserting after paragraph (1)(D)(iv), as
2 so redesignated, the following:

3 “(2) any eligible activity under the Predisaster
4 Hazard Mitigation Program under section 203 of
5 the Robert T. Stafford Disaster Assistance and
6 Emergency Relief Act (42 U.S.C. 5133).”.

7 **SEC. 204. ELEVATION CERTIFICATES.**

8 Chapter I of the National Flood Insurance Act of
9 1968 (42 U.S.C. 4011 et seq.) is amended by adding at
10 the end the following:

11 **“SEC. 1326. PREMIUM CREDIT TO OFFSET THE COST OF OB-**
12 **TAINING AN ELEVATION CERTIFICATE.**

13 “The Administrator may offer a policyholder under
14 the national flood insurance program a 1-time credit of
15 \$500 with respect to a premium paid by the policyholder
16 under the program in order to offset the cost incurred by
17 the policyholder in obtaining a National Flood Insurance
18 Program Elevation Certificate.”.

19 **SEC. 205. MITIGATION PROVISIONS.**

20 (a) MITIGATION STRATEGIES.—Section 1361(d)(1)
21 of the National Flood Insurance Act of 1968 (42 U.S.C.
22 4102(d)(1)) is amended—

23 (1) in subparagraph (A), by striking “and” at
24 the end;

1 (2) in subparagraph (B), by striking “and” at
2 the end; and

3 (3) by inserting after subparagraph (B) the fol-
4 lowing:

5 “(C) with respect to buildings in dense
6 urban environments, methods that can be de-
7 ployed on a block or neighborhood scale; and

8 “(D) elevation of mechanical systems;
9 and”.

10 (b) MITIGATION CREDIT.—Section 1308(k) of the
11 National Flood Insurance Act of 1968 (42 U.S.C.
12 4015(k)) is amended—

13 (1) by striking “shall take into account” and
14 inserting “shall—

15 “(1) take into account”;

16 (2) in paragraph (1), as so designated, by strik-
17 ing the period at the end and inserting “; and”; and

18 (3) by adding at the end the following:

19 “(2) offer a reduction of the risk premium rate
20 charged to a policyholder in an amount that is not
21 less than 10 percent of that rate if the policyholder
22 implements any mitigation method described in
23 paragraph (1).”.

24 (c) COVERAGE FOR COOPERATIVES.—

1 (1) IN GENERAL.—Section 1306 of the Na-
2 tional Flood Insurance Act of 1968 (42 U.S.C.
3 4013) is amended by adding at the end the fol-
4 lowing:

5 “(e) COOPERATIVES.—

6 “(1) DEFINITION.—In this subsection, the term
7 ‘cooperative building’ has the meaning given the
8 term in section 1312(d).

9 “(2) EQUAL TREATMENT WITH CONDOMIN-
10 IUMS.—Notwithstanding any other provision of law,
11 an owner of a share of a cooperative building shall
12 be eligible to purchase flood insurance coverage
13 under the national flood insurance program on the
14 same terms as a condominium owner.”.

15 (2) PAYMENT OF CLAIMS.—Section 1312 of the
16 National Flood Insurance Act of 1968 (42 U.S.C.
17 4019) is amended—

18 (A) in subsection (c)—

19 (i) in the subsection heading, by in-
20 serting “AND COOPERATIVE” after “CON-
21 DOMINIUM”;

22 (ii) by inserting “or owners of a share
23 of a cooperative building” after “condo-
24 minium owners”; and

1 (iii) by inserting “or cooperative asso-
2 ciation” after “condominium association”
3 each place that term appears; and

4 (B) by adding at the end the following:

5 “(d) DEFINITIONS.—In this section, the terms ‘coop-
6 erative association’ and ‘cooperative building’ have the
7 meanings given the terms by the Administrator.”.

8 **SEC. 206. HOME STRUCTURE VALUES.**

9 (a) STUDY AND REPORT.—

10 (1) STUDY.—The Administrator shall conduct a
11 study, the purpose of which shall be to—

12 (A) evaluate best practices in the insurance
13 industry for risk rating and classification, in-
14 cluding practices that consider replacement cost
15 value when estimating premium rates; and

16 (B) with respect to the estimates made by
17 the Administrator under section 1307(a)(1) of
18 the National Flood Insurance Act of 1968 (42
19 U.S.C. 4014(a)(1)), as in effect on the day be-
20 fore the date of enactment of this Act—

21 (i) assess options, methods, and strat-
22 egies for including replacement cost value
23 in the estimates;

1 (ii) identify recommendations for in-
2 cluding replacement cost value in the esti-
3 mates;

4 (iii) identify an appropriate method-
5 ology by which replacement cost value
6 could be incorporated into the estimates;
7 and

8 (iv) develop a feasible implementation
9 plan and projected timeline for including
10 replacement cost value in the estimates.

11 (2) REPORT.—Not later than 18 months after
12 the date of enactment of this Act, the Administrator
13 shall submit to the Committee on Banking, Housing,
14 and Urban Affairs of the Senate and the Committee
15 on Financial Services of the House of Representa-
16 tives a report that contains—

17 (A) the results of the study conducted
18 under paragraph (1) (referred to in this para-
19 graph as “the study”);

20 (B) an analysis of the recommendations
21 made by the study and the impacts that those
22 recommendations would have on the National
23 Flood Insurance Program, including cost con-
24 siderations;

1 (C) a description of actions taken by the
2 Administrator to implement the recommenda-
3 tions made by the study;

4 (D) a list of any recommendations made
5 by the study that, as of the date on which the
6 Administrator submits the report, the Adminis-
7 trator has deferred or upon which the Adminis-
8 trator has not acted; and

9 (E) an explanatory statement with respect
10 to each recommendation described in subpara-
11 graph (D).

12 (b) IMPLEMENTATION.—

13 (1) IN GENERAL.—Section 1307(a)(1)(A) of the
14 National Flood Insurance Act of 1968 (42 U.S.C.
15 4014(a)(1)(A)) is amended—

16 (A) in clause (i), by striking “and” at the
17 end;

18 (B) in clause (ii), by striking “, and” and
19 inserting “; and”; and

20 (C) by adding at the end the following:

21 “(iii) the replacement cost value of an
22 insured structure when determining under-
23 insurance loading factors, consistent with
24 the requirements of section 1308(e) and
25 taking into account the results of the study

1 conducted under section 206(a)(1) of the
2 Flood Insurance Affordability and Sustain-
3 ability Act of 2017; and”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by paragraph (1) shall take effect on the date that
6 is 1 year after the date on which the Administrator
7 submits the report under subsection (a)(2).

8 **SEC. 207. AFFORDABILITY VOUCHERS.**

9 Chapter I of the National Flood Insurance Act of
10 1968 (42 U.S.C. 4011 et seq.), as amended by section 204
11 of this Act, is further amended by adding at the end the
12 following:

13 **“SEC. 1327. AFFORDABILITY VOUCHERS.**

14 “(a) DEFINITIONS.—In this section—

15 “(1) the term ‘area median income’ means, with
16 respect to an area, the area median income for the
17 area, as defined for the applicable year by the Sec-
18 retary of Housing and Urban Development;

19 “(2) the term ‘eligible household’ means an
20 owner-occupied household—

21 “(A) that has a total household income
22 that is less than 165 percent of the area me-
23 dian income for the area in which the household
24 is located;

1 “(B) for which the cost of flood insurance
2 premiums and fees in a year would result in ex-
3 cess costs for the household for that year; and

4 “(C) that—

5 “(i) renews an existing flood insur-
6 ance policy; or

7 “(ii) is required to purchase flood in-
8 surance because of a revision of, or an up-
9 date to, a floodplain area or flood risk zone
10 that is identified, delineated, or established
11 under section 1360;

12 “(3) the term ‘excess costs’ means the amount
13 by which the sum obtained by adding the amount of
14 flood insurance premiums and fees paid by a house-
15 hold in a year and the housing expenses incurred by
16 the household in that year exceeds 40 percent of the
17 total household income for the household in that
18 year; and

19 “(4) the term ‘housing expenses’ means, with
20 respect to a household, the total amount that the
21 household spends in a year on—

22 “(A) mortgage payments;

23 “(B) property taxes; and

24 “(C) homeowners insurance.

1 “(b) VOUCHERS.—The Administrator shall provide a
2 voucher to an eligible household in accordance with sub-
3 section (c) to offset the excess costs incurred in a year
4 by the eligible household.

5 “(c) CALCULATION.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 the Administrator shall provide a voucher to an eli-
8 gible household as follows:

9 “(A) An eligible household that has a total
10 household income that is not greater than 80
11 percent of area median income shall receive a
12 voucher in an amount that is equal to 100 per-
13 cent of the excess costs incurred by the house-
14 hold for the year in which the eligible household
15 receives the voucher.

16 “(B) An eligible household that has a total
17 household income that is greater than 80 per-
18 cent of area median income and not greater
19 than 120 percent of area median income shall
20 receive a voucher in an amount that is equal to
21 80 percent of the excess costs incurred by the
22 household for the year in which the eligible
23 household receives the voucher.

24 “(C) An eligible household that has a total
25 household income that is greater than 120 per-

1 cent of area median income and less than 165
2 percent of area median income shall receive a
3 voucher in an amount that is equal to 60 per-
4 cent of the excess costs for the year in which
5 the eligible household receives the voucher.

6 “(2) LIMITATION.—The Administrator may not
7 provide a voucher to an eligible household in an
8 amount that is more than the total amount that the
9 eligible household pays in flood insurance premiums
10 and fees in the year in which the voucher is pro-
11 vided.”.

12 **SEC. 208. COVERAGE LIMITS.**

13 Section 1306(b) of the National Flood Insurance Act
14 of 1968 (42 U.S.C. 4013(b)) is amended—

15 (1) in paragraph (1)—

16 (A) in subparagraph (A)—

17 (i) in clause (i)—

18 (I) by striking “\$35,000” and in-
19 serting “\$500,000”; and

20 (II) by striking “\$100,000” and
21 inserting “\$500,000”;

22 (ii) in clause (ii), by striking
23 “\$10,000” and inserting “\$500,000”; and

24 (iii) in clause (iii)—

19

1 (I) by striking “\$50,000” and in-
2 serting “\$500,000”; and

3 (II) by striking “\$150,000” and
4 inserting “\$500,000”;

5 (B) in subparagraph (B), by striking
6 “\$100,000” each place that term appears and
7 inserting “\$500,000”; and

8 (C) in subparagraph (C)—

9 (i) in clause (i), by striking
10 “\$100,000” and inserting “\$500,000”;
11 and

12 (ii) in clause (ii), by striking
13 “\$100,000” and inserting “\$500,000”;

14 (2) in paragraph (2), by striking “\$250,000”
15 and inserting “\$500,000”;

16 (3) in paragraph (3), by striking “\$100,000”
17 and inserting “\$500,000”; and

18 (4) in paragraph (4), by striking “\$500,000”
19 each place that term appears and inserting
20 “\$1,000,000”.

21 **TITLE III—AGREED VALUE**

22 **PILOT PROGRAM**

23 **SEC. 301. SHORT TITLE.**

24 This title may be cited as the “Agreed Value Flood
25 Protection Program Act of 2017”.

1 **SEC. 302. DEFINITIONS.**

2 In this title—

3 (1) the term “agreed value flood protection pol-
4 icy” means a flood protection policy providing that,
5 if a flood occurs, the National Flood Insurance Pro-
6 gram will make payments according to agreed sched-
7 ules of payments determined by flood height in cov-
8 ered structures participating in the Program;

9 (2) the term “catastrophic loss year” means a
10 year in which the combined ratio is not less than
11 130 percent;

12 (3) the term “combined ratio” means the
13 quotient obtained when the sum obtained by adding
14 the losses paid under the National Flood Insurance
15 Program in a year and the expenses of the National
16 Flood Insurance Program in that year is divided by
17 the total amount of premiums collected under the
18 National Flood Insurance Program in that year;

19 (4) the term “covered agent” means any insur-
20 ance agent, producer, or intermediary licensed by a
21 State;

22 (5) the term “covered structure” means real
23 property eligible for flood insurance coverage under
24 the National Flood Insurance Program;

1 (6) the term “eligible participant” means a per-
2 son that has demonstrated ownership of a covered
3 structure;

4 (7) the term “flood height” means the distance
5 between the high water mark and the top of the first
6 floor of a covered structure, as measured or as de-
7 termined by other appropriate methods;

8 (8) the term “Program” means the Agreed
9 Value Flood Protection Program established under
10 section 303(a); and

11 (9) the term “Reserve Fund” means the Agreed
12 Value Flood Protection Program Reserve Fund es-
13 tablished under section 305(a).

14 **SEC. 303. AGREED VALUE FLOOD PROTECTION PILOT PRO-**
15 **GRAM.**

16 (a) IN GENERAL.—The Administrator may establish
17 and carry out an optional Agreed Value Flood Protection
18 Pilot Program for the 8-year period beginning on the date
19 of enactment of this Act, under which—

20 (1) an eligible participant may purchase an
21 agreed value flood protection policy to protect
22 against losses resulting from physical damage to, or
23 loss of, a covered structure, including any personal
24 property related thereto, owned by the eligible par-
25 ticipant arising from a flood occurring in the United

1 States during the period for which the policy is in
2 force;

3 (2) a covered agent may issue an agreed value
4 flood protection policy to an eligible participant; and

5 (3) an eligible participant may not be denied
6 the opportunity to purchase an agreed value flood
7 protection policy solely on the basis of the geo-
8 graphic location of the eligible participant.

9 (b) ELIGIBILITY.—In order to purchase an agreed
10 value flood protection policy, an eligible participant shall
11 demonstrate that the value of the covered structure to be
12 covered under the policy, including any contents within the
13 covered structure, is not less than the coverage amount
14 of the policy.

15 (c) ISSUANCE.—Any covered agent may issue an
16 agreed value flood protection policy to an eligible partici-
17 pant under the Program.

18 (d) WRITE YOUR OWN.—The laws and regulations
19 governing the Write Your Own Program shall not apply
20 to the Program.

21 (e) BROCHURE.—

22 (1) IN GENERAL.—The Administrator shall
23 publish a brochure that compares the premium rates
24 charged under the National Flood Insurance Pro-

1 gram with the premium rates charged under the
2 Program.

3 (2) COVERED AGENTS.—

4 (A) IN GENERAL.—A covered agent shall
5 explain to an eligible participant the risks asso-
6 ciated with an agreed value flood protection pol-
7 icy before the eligible participant purchases a
8 policy.

9 (B) DELIVERY.—If a covered agent deliv-
10 ers the brochure published under paragraph (1)
11 to an eligible participant before the eligible par-
12 ticipant purchases an agreed value flood protec-
13 tion policy, the delivery shall constitute prima
14 facie evidence that the covered agent has satis-
15 fied the requirement under subparagraph (A).

16 (f) REPORT.—Not later than 1 year after the date
17 on which the Program ends, the Administrator shall sub-
18 mit to Congress a report—

19 (1) containing data that was collected during
20 the administration of the Program relating to under-
21 insurance factors, claims statistics, claims disputes
22 (including how such disputes were adjudicated), and
23 actuarial rate reviews; and

24 (2) that compares premium rates charged under
25 the Program with comparable premium rates

1 charged under the standard flood insurance policy,
2 controlling for comparable risk factors.

3 **SEC. 304. USE OF AGREED VALUE FLOOD PROTECTION TO**
4 **SATISFY REQUIREMENT TO PURCHASE**
5 **FLOOD INSURANCE TO RECEIVE A MORT-**
6 **GAGE LOAN.**

7 An agreed value flood protection policy shall satisfy
8 the mandatory purchase requirement.

9 **SEC. 305. AGREED VALUE FLOOD PROTECTION PROGRAM**
10 **RESERVE FUND.**

11 (a) ESTABLISHMENT OF AN AGREED VALUE FLOOD
12 PROTECTION RESERVE FUND.—In carrying out the Pro-
13 gram, the Administrator shall establish in the Treasury
14 of the United States an Agreed Value Flood Protection
15 Program Reserve Fund, which shall be—

16 (1) separate from any other accounts or funds
17 available to the Administrator; and

18 (2) available for meeting the expected future
19 obligations of the Program, including—

20 (A) the payment of claims during cata-
21 strophic loss years; and

22 (B) the repayment of amounts outstanding
23 under any note or other obligation issued by the
24 Administrator under section 1309(a) of the Na-

1 tional Flood Insurance Act of 1968 (42 U.S.C.
2 4016(a)).

3 (b) RESERVE RATIO.—Subject to the phase-in re-
4 quirements under subsection (d), the Reserve Fund shall
5 maintain a balance that, together with any risk financing
6 covering the Program, is an amount that is equal to—

7 (1) 1.5 percent of the sum of the total potential
8 loss exposure of all outstanding agreed value flood
9 protection policies in force during the prior fiscal
10 year; or

11 (2) a higher percentage of the sum described in
12 paragraph (1) that the Administrator determines to
13 be appropriate, taking into consideration any cir-
14 cumstance that may raise a significant risk of sub-
15 stantial future losses to the Reserve Fund.

16 (c) MAINTENANCE OF RESERVE RATIO.—

17 (1) IN GENERAL.—The Administrator may es-
18 tablish, increase, or decrease the amount of aggre-
19 gate annual policy charges to be collected for any
20 fiscal year that are necessary in order to—

21 (A) maintain the amount required under
22 subsection (b); and

23 (B) if the balance of the Reserve Fund is
24 an amount that is less than the amount re-

1 required under subsection (b), obtain the amount
2 required under subsection (b).

3 (2) CONSIDERATIONS.—In exercising the au-
4 thority under paragraph (1), the Administrator shall
5 consider—

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

8 (B) the covered loss expenditures under
9 the Program;

10 (C) any investment income generated
11 under the Program; and

12 (D) any other factor that the Adminis-
13 trator determines appropriate.

14 (3) LIMITATION.—Notwithstanding any other
15 provision of law or any agreement entered into by
16 the Administrator, the Administrator shall ensure
17 that all amounts attributable to the establishment or
18 increase of annual policy charges under paragraph
19 (1) are transferred to the Administrator for deposit
20 into the Reserve Fund to be available for meeting
21 the expected future obligations of the Program, as
22 described in subsection (a)(2).

23 (d) PHASE-IN REQUIREMENTS.—The phase-in re-
24 quirements under this subsection are as follows:

1 (1) IN GENERAL.—Beginning in fiscal year
2 2018, and in each successive fiscal year thereafter
3 until the amount required under subsection (b) is
4 obtained, the Administrator shall deposit in the Re-
5 serve Fund an amount that is not less than 10 per-
6 cent of the amount required under subsection (b).

7 (2) AMOUNT SATISFIED.—Except as provided
8 in paragraph (3), beginning on the date on which
9 the amount required under subsection (b) is ob-
10 tained, the Administrator shall not be required to
11 set aside any amounts for the Reserve Fund.

12 (3) EXCEPTION.—If, at any time during any
13 fiscal year after the amount required under sub-
14 section (b) is obtained, the amount in the Reserve
15 Fund is less than the amount required under sub-
16 section (b), the Administrator shall deposit in the
17 Reserve Fund during that fiscal year an amount
18 that is not less than the lesser of—

19 (A) the difference between the amount re-
20 quired under subsection (b) and the amount in
21 the Reserve Fund; or

22 (B) 10 percent of the amount required
23 under subsection (b).

24 (e) LIMITATION ON RESERVE RATIO.—If, in any fis-
25 cal year, the Administrator determines that the amount

1 required under subsection (b) cannot be obtained, the Ad-
2 ministrator shall submit to Congress a report that—

3 (1) describes and details the specific concerns
4 of the Administrator regarding the consequences of
5 that amount not being obtained;

6 (2) demonstrates how the consequences de-
7 scribed in paragraph (1) would harm the long-term
8 financial soundness of the Program; and

9 (3) indicates the maximum attainable amount
10 for that fiscal year.

11 (f) INVESTMENT.—The Secretary of the Treasury
12 shall invest such amounts of the Reserve Fund as the Sec-
13 retary determines advisable in obligations issued or guar-
14 anteed by the United States.

15 **SEC. 306. RULE OF CONSTRUCTION.**

16 Nothing in this title may be construed to—

17 (1) limit the National Flood Insurance Pro-
18 gram, including the ability of a person to purchase
19 flood insurance under the National Flood Insurance
20 Program to satisfy the mandatory purchase require-
21 ment; or

22 (2) require a person to participate in the Pro-
23 gram.

1 **TITLE IV—PROVIDING PRIVATE**
2 **MARKET ACCESS, ACCOUNT-**
3 **ABILITY, AND COMPETITION**

4 **SEC. 401. USE OF PRIVATE FLOOD INSURANCE TO SATISFY**
5 **MANDATORY PURCHASE REQUIREMENT.**

6 (a) IN GENERAL.—

7 (1) MANDATORY PURCHASE REQUIREMENT.—

8 (A) AMOUNT AND TERM OF COVERAGE.—

9 Section 102 of the Flood Disaster Protection
10 Act of 1973 (42 U.S.C. 4012a) is amended by
11 striking “SEC. 102. (A)” and all that follows
12 through the end of subsection (a) and inserting
13 the following:

14 “SEC. 102. (a) AMOUNT AND TERM OF COVERAGE.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
16 on and after the date that is 60 days after the date
17 of enactment of this Act, no Federal officer or agen-
18 cy may approve any financial assistance for acquisi-
19 tion or construction purposes for use in any area
20 that has been identified by the Administrator as an
21 area having special flood hazards and in which the
22 sale of flood insurance has been made available
23 under the National Flood Insurance Act of 1968 (42
24 U.S.C. 4001 et seq.), unless the building or mobile

1 home and any personal property to which the finan-
2 cial assistance relates is covered by flood insurance.

3 “(2) AMOUNT AND TERM.—

4 “(A) AMOUNT GENERALLY.—The amount
5 of flood insurance required under paragraph
6 (1)—

7 “(i) in the case of Federal flood insur-
8 ance, shall be not less than the lesser of—

9 “(I) 80 percent of the purchase
10 price of the property;

11 “(II) the development or project
12 cost of the building, mobile home, or
13 personal property (less estimated land
14 cost);

15 “(III) the maximum limit of Fed-
16 eral flood insurance coverage made
17 available with respect to the particular
18 type of property; or

19 “(IV) for multi-unit structures
20 only, the outstanding principal bal-
21 ance of the loan; or

22 “(ii) in the case of private flood insur-
23 ance, shall be not less than the lesser of—

24 “(I) 80 percent of the purchase
25 price of the property;

1 “(II) the development or project
2 cost of the building, mobile home, or
3 personal property (less estimated land
4 cost);

5 “(III) the maximum limit of Fed-
6 eral flood insurance coverage made
7 available with respect to the particular
8 type of property; or

9 “(IV) for multi-unit structures
10 only, the outstanding principal bal-
11 ance of the loan.

12 “(B) LOANS AND INSURED AND GUARAN-
13 TEED LOANS.—If the financial assistance de-
14 scribed in paragraph (1) is in the form of a
15 loan or an insurance or guaranty of a loan,
16 flood insurance need not be required beyond the
17 term of the loan.

18 “(C) TERM GENERALLY.—The require-
19 ment of maintaining flood insurance under
20 paragraph (1) shall apply during the life of the
21 property, regardless of transfer of ownership of
22 the property.”.

23 (B) MORTGAGE LOANS.—Section 102(b) of
24 the Flood Disaster Protection Act of 1973 (42
25 U.S.C. 4012a(b)) is amended—

1 (i) by striking paragraphs (1) through
2 (5) and inserting the following:

3 “(1) REGULATED LENDING INSTITUTIONS.—

4 “(A) IN GENERAL.—Each Federal entity
5 for lending regulation (after consultation and
6 coordination with the Financial Institutions Ex-
7 amination Council established under section
8 1004 of the Federal Financial Institutions Ex-
9 amination Council Act of 1974 (12 U.S.C.
10 3303)) shall by regulation direct regulated lend-
11 ing institutions not to make, increase, extend,
12 or renew any loan secured by improved real es-
13 tate or a mobile home located or to be located
14 in an area that has been identified by the Ad-
15 ministrator as an area having special flood haz-
16 ards and in which flood insurance has been
17 made available under the National Flood Insur-
18 ance Act of 1968 (42 U.S.C. 4001 et seq.), un-
19 less the building or mobile home and any per-
20 sonal property securing the loan is covered for
21 the term of the loan by flood insurance in an
22 amount described in subparagraph (B).

23 “(B) AMOUNT.—The amount of flood in-
24 surance required under subparagraph (A)—

1 “(i) in the case of Federal flood insur-
2 ance, shall be not less than the lesser of—

3 “(I) 80 percent of the purchase
4 price of the property;

5 “(II) the maximum limit of Fed-
6 eral flood insurance coverage made
7 available with respect to the particular
8 type of property; or

9 “(III) for multi-unit structures
10 only, the outstanding principal bal-
11 ance of the loan; or

12 “(ii) in the case of private flood insur-
13 ance, shall be not less than the lesser of—

14 “(I) 80 percent of the purchase
15 price of the property;

16 “(II) the maximum limit of Fed-
17 eral flood insurance coverage made
18 available with respect to the particular
19 type of property; or

20 “(III) for multi-unit structures
21 only, the outstanding principal bal-
22 ance of the loan.

23 “(2) FEDERAL AGENCY LENDERS.—

24 “(A) IN GENERAL.—

1 “(i) INSURANCE REQUIRED.—A Fed-
2 eral agency lender may not make, increase,
3 extend, or renew any loan secured by im-
4 proved real estate or a mobile home located
5 or to be located in an area that has been
6 identified by the Administrator as an area
7 having special flood hazards and in which
8 flood insurance has been made available
9 under the National Flood Insurance Act of
10 1968 (42 U.S.C. 4001 et seq.), unless the
11 building or mobile home and any personal
12 property securing the loan is covered for
13 the term of the loan by flood insurance in
14 accordance with paragraph (1).

15 “(ii) REGULATIONS.—

16 “(I) IN GENERAL.—Each Federal
17 agency lender may issue any regula-
18 tions necessary to carry out this para-
19 graph.

20 “(II) CONSISTENCY.—Any regu-
21 lations issued under subclause (I)
22 shall be consistent with and substan-
23 tially identical to any regulations
24 issued under paragraph (1).

1 “(B) REQUIREMENT TO ACCEPT FLOOD IN-
2 SURANCE.—Each Federal agency lender shall
3 accept flood insurance as satisfaction of the
4 flood insurance coverage requirement under
5 subparagraph (A)(i) if the flood insurance cov-
6 erage meets the requirements for coverage
7 under that subparagraph.

8 “(3) GOVERNMENT-SPONSORED ENTERPRISES
9 FOR HOUSING.—

10 “(A) IMPLEMENTATION OF PROCE-
11 DURES.—

12 “(i) REQUIREMENT.—The Federal
13 National Mortgage Association and the
14 Federal Home Loan Mortgage Corporation
15 shall implement procedures reasonably de-
16 signed to ensure that, for any loan de-
17 scribed in clause (ii) that is purchased or
18 guaranteed by such entity, the building or
19 mobile home and any personal property se-
20 curing the loan is covered for the term of
21 the loan by flood insurance in the amount
22 provided in paragraph (1)(B).

23 “(ii) SECURED LOAN.—A loan de-
24 scribed in this clause is a loan secured by

1 improved real estate or a mobile home lo-
2 cated in an area—

3 “(I) that has been identified, at
4 the time of the origination of the loan
5 or at any time during the term of the
6 loan, by the Administrator as an area
7 having special flood hazards; and

8 “(II) in which flood insurance is
9 made available under the National
10 Flood Insurance Act of 1968 (42
11 U.S.C. 4001 et seq.).

12 “(B) ACCEPTABLE INSURANCE.—Subject
13 to subparagraph (C), the Federal National
14 Mortgage Association and the Federal Home
15 Loan Mortgage Corporation shall accept flood
16 insurance as satisfaction of the flood insurance
17 coverage requirement under paragraph (1) if
18 the flood insurance coverage provided meets the
19 requirements for coverage under that paragraph
20 and any requirements established by the Fed-
21 eral National Mortgage Association or the Fed-
22 eral Home Loan Corporation, respectively, re-
23 lating to the financial strength of private insur-
24 ance companies from which the Federal Na-
25 tional Mortgage Association or the Federal

1 Home Loan Mortgage Corporation will accept
2 private flood insurance.

3 “(C) RELATION TO STATE LAW.—A re-
4 quirement described in subparagraph (B) may
5 not affect or conflict with any State law, regula-
6 tion, or procedure concerning the regulation of
7 the business of insurance.

8 “(4) APPLICABILITY.—

9 “(A) EXISTING COVERAGE.—Except as
10 provided in subparagraph (B), paragraph (1)
11 shall apply on the date of enactment of the Rie-
12 gle Community Development and Regulatory
13 Improvement Act of 1994 (12 U.S.C. 4701 et
14 seq.).

15 “(B) NEW COVERAGE.—Paragraphs (2)
16 and (3) shall apply only with respect to any
17 loan made, increased, extended, or renewed
18 after the expiration of the 1-year period begin-
19 ning on the date of enactment of the Riegle
20 Community Development and Regulatory Im-
21 provement Act of 1994 (12 U.S.C. 4701 et
22 seq.). Paragraph (1) shall apply with respect to
23 any loan made, increased, extended, or renewed
24 by any lender supervised by the Farm Credit

1 Administration only after the expiration of the
2 period under this subparagraph.

3 “(C) CONTINUED EFFECT OF REGULA-
4 TIONS.—Notwithstanding any other provision of
5 this subsection, the regulations to carry out
6 paragraph (1), as in effect immediately before
7 the date of enactment of the Riegle Community
8 Development and Regulatory Improvement Act
9 of 1994 (12 U.S.C. 4701 et seq.), shall con-
10 tinue to apply until the regulations issued to
11 carry out paragraph (1), as amended by section
12 522(a) of such Act, take effect.

13 “(5) RULE OF CONSTRUCTION.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), nothing in this subsection shall be
16 construed to supersede or limit the authority of
17 a Federal entity for lending regulation, the
18 Federal Housing Finance Agency, a Federal
19 agency lender, the Federal National Mortgage
20 Association, or the Federal Home Loan Mort-
21 gage Corporation to establish requirements re-
22 lating to the financial strength of private insur-
23 ance companies from which the entity or agency
24 will accept private flood insurance.

1 “(B) RELATION TO STATE LAW.—A re-
2 quirement described in subparagraph (A) may
3 not affect or conflict with any State law, regula-
4 tion, or procedure concerning the regulation of
5 the business of insurance.”; and

6 (ii) by striking paragraph (7) and in-
7 serting the following:

8 “(7) DEFINITIONS.—In this section:

9 “(A) FEDERAL FLOOD INSURANCE.—The
10 term ‘Federal flood insurance’ means an insur-
11 ance policy made available under the National
12 Flood Insurance Act of 1968 (42 U.S.C. 4001
13 et seq.).

14 “(B) FLOOD INSURANCE.—The term ‘flood
15 insurance’ means—

16 “(i) Federal flood insurance; and

17 “(ii) private flood insurance.

18 “(C) PRIVATE FLOOD INSURANCE.—The
19 term ‘private flood insurance’ means an insur-
20 ance policy that—

21 “(i) is issued by an insurance com-
22 pany that is—

23 “(I) licensed, admitted, or other-
24 wise approved to engage in the busi-
25 ness of insurance in the State in

1 which the insured building is located,
2 by the insurance regulator of that
3 State; or

4 “(II) eligible as a nonadmitted
5 insurer to provide insurance in the
6 home State of the insured, in accord-
7 ance with sections 521 through 527 of
8 the Nonadmitted and Reinsurance Re-
9 form Act of 2010 (15 U.S.C. 8201
10 through 8206);

11 “(ii) is issued by an insurance com-
12 pany that is not otherwise disapproved as
13 a surplus lines insurer by the insurance
14 regulator of the State in which the prop-
15 erty to be insured is located; and

16 “(iii) provides flood insurance cov-
17 erage that complies with the laws and reg-
18 ulations of that State.

19 “(D) STATE.—The term ‘State’ means any
20 State of the United States, the District of Co-
21 lumbia, the Commonwealth of Puerto Rico,
22 Guam, the Northern Mariana Islands, the Vir-
23 gin Islands, and American Samoa.”.

24 (2) EFFECT OF PRIVATE FLOOD INSURANCE
25 COVERAGE ON CONTINUOUS COVERAGE REQUIRE-

1 MENTS.—Section 1308 of the National Flood Insur-
2 ance Act of 1968 (42 U.S.C. 4015) is amended by
3 adding at the end the following:

4 “(n) EFFECT OF PRIVATE FLOOD INSURANCE COV-
5 ERAGE ON CONTINUOUS COVERAGE REQUIREMENTS.—
6 For purposes of applying any statutory, regulatory, or ad-
7 ministrative continuous coverage requirement, including
8 under section 1307(g)(1), the Administrator shall consider
9 any period during which a property was continuously cov-
10 ered by private flood insurance to be a period of contin-
11 uous coverage.”.

12 (b) APPLICABILITY OF EXPANDED PRIVATE FLOOD
13 INSURANCE OPTIONS.—The amendments made by sub-
14 section (a) shall apply only with respect to a property that
15 is described in subparagraphs (A) through (E) of section
16 1307(a)(2) of the National Flood Insurance Act of 1968
17 (42 U.S.C. 4014(a)(2)).

18 (c) REPORT ON LEVEL OF PERCEIVED ADVERSE SE-
19 LECTION.—Not later than 2 years after the date of enact-
20 ment of this Act, the Administrator shall submit to Con-
21 gress a report on the extent to which, of the properties
22 that are required to satisfy the mandatory purchase re-
23 quirement, the properties for which private flood insurance
24 is purchased tend to be at a lower risk of flooding than
25 the properties for which Federal flood insurance is pur-

1 chased (commonly referred to as “adverse selection”), by
2 detailing risk classifications of private flood insurance
3 policies.

4 **SEC. 402. PROVISION OF PRIVATE FLOOD INSURANCE BY**
5 **WRITE YOUR OWN COMPANIES.**

6 The Administrator—

7 (1) on and after October 1 of the first fiscal
8 year beginning after the date of enactment of this
9 Act, may not prohibit a Write Your Own company
10 from offering or selling private flood insurance out-
11 side of the Write Your Own Program; and

12 (2) shall amend article XIII of the WYO Com-
13 pany Financial Assistance/Subsidy Arrangement in
14 accordance with paragraph (1).

15 **SEC. 403. AVAILABILITY OF NFIP CLAIMS DATA.**

16 (a) IN GENERAL.—The Administrator shall make
17 available to a private insurance company that complies
18 with subsection (b) anonymized data regarding claims
19 under the National Flood Insurance Program, and any re-
20 lated information that the Administrator determines ap-
21 propriate, to enable the company to improve its under-
22 standing of flood risk in the United States.

23 (b) PRIVATE FLOOD INSURANCE CLAIMS DATA.—
24 The Administrator may provide data and related informa-
25 tion to a private insurance company under subsection (a)

1 if the company agrees to make available to the public, free
2 of charge, its own anonymized data regarding private flood
3 insurance claims.

4 **SEC. 404. FEES AND SURCHARGES FOR PRIVATE FLOOD IN-**
5 **SURANCE POLICIES.**

6 (a) SURCHARGES.—Section 1308A(a) of the National
7 Flood Insurance Act of 1968 (42 U.S.C. 4015a(a)) is
8 amended—

9 (1) by striking “The Administrator” and insert-
10 ing the following:

11 “(1) COLLECTION ON NFIP POLICIES.—The Ad-
12 ministrator”; and

13 (2) by adding at the end the following:

14 “(2) COLLECTION ON PRIVATE POLICIES.—

15 “(A) IN GENERAL.—An insurance com-
16 pany that issues a policy for private flood insur-
17 ance shall impose and collect an annual sur-
18 charge, in the amount provided in subsection
19 (b), on a private flood insurance policy.

20 “(B) IN ADDITION TO INCREASED COST OF
21 COMPLIANCE SURCHARGE.—The surcharge im-
22 posed under subparagraph (A) shall be in addi-
23 tion to the surcharge imposed under section
24 1304(c) and any other assessments and sur-
25 charges applied to such coverage.

1 “(C) SURCHARGE PAYABLE TO ADMINIS-
2 TRATOR.—Any surcharge imposed and collected
3 under subparagraph (A) shall be payable to the
4 Administrator.

5 “(D) INFORMATION.—The Administrator
6 may require the provision of such information
7 as the Administrator decides is necessary to
8 verify that a surcharge imposed and collected
9 under subparagraph (A) has been imposed and
10 collected at the proper time and in the proper
11 amount.

12 “(E) COST OF COLLECTING SURCHARGE.—
13 No portion of the surcharge collected under
14 subparagraph (A) may be retained by the insur-
15 ance company for the costs of collecting, han-
16 dling, or remitting the surcharge except for in-
17 terest accruing to the company after collection
18 and before remittance.”.

19 (b) FEDERAL POLICY FEE.—Section 1307(a) of the
20 National Flood Insurance Act of 1968 (42 U.S.C.
21 4014(a)) is amended—

22 (1) in paragraph (1)(B)(iii), by striking “shall
23 be recovered by” and all that follows and inserting
24 “shall be recovered—

45

1 “(I) in the case of a policy under
2 the national flood insurance program,
3 by a fee that—

4 “(aa) shall be charged to
5 policyholders; and

6 “(bb) shall not be subject to
7 any agents’ commissions, com-
8 pany expense allowances, or
9 State or local premium taxes;
10 and

11 “(II) in the case of a private
12 flood insurance policy, by a fee—

13 “(aa) that shall be—

14 “(AA) charged to pol-
15 icyholders;

16 “(BB) collected by the
17 insurance company that
18 issued the policy; and

19 “(CC) payable to the
20 Administrator;

21 “(bb) that shall not be sub-
22 ject to any agents’ commissions,
23 company expense allowances, or
24 State or local premium taxes;
25 and

1 (c) INCREASED COST OF COMPLIANCE SURCHARGE
2 FOR PRIVATE POLICIES.—Section 1304 of the National
3 Flood Insurance Act of 1968 (42 U.S.C. 4011), as amend-
4 ed by section 203(b) of this Act, is further amended—

5 (1) in subsection (b), by striking the flush text
6 following paragraph (2), as so designated;

7 (2) by redesignating subsection (c) as sub-
8 section (d); and

9 (3) by inserting after subsection (b) the fol-
10 lowing:

11 “(c) IMPOSITION AND COLLECTION OF SUR-
12 CHARGE.—

13 “(1) NFIP POLICIES.—The Administrator shall
14 impose a surcharge on each insured under the na-
15 tional flood insurance program of not more than \$75
16 per policy to provide cost of compliance coverage in
17 accordance with the provisions of subsection (b).

18 “(2) PRIVATE POLICIES.—

19 “(A) IN GENERAL.—An insurance com-
20 pany that issues a policy for private flood insur-
21 ance shall impose a surcharge on each insured
22 of not more than \$75 per policy to provide cost
23 of compliance coverage in accordance with the
24 provisions of subsection (b).

1 “(B) SURCHARGE PAYABLE TO ADMINIS-
2 TRATOR.—Any surcharge imposed under sub-
3 paragraph (A) shall be payable to the Adminis-
4 trator.

5 “(C) INFORMATION.—The Administrator
6 may require the provision of such information
7 as the Administrator decides is necessary to
8 verify that a surcharge imposed under subpara-
9 graph (A) has been imposed at the proper time
10 and in the proper amount.

11 “(D) COST OF COLLECTING SURCHARGE.—
12 No portion of the surcharge imposed under sub-
13 paragraph (A) may be retained by the insur-
14 ance company for the costs of collecting, han-
15 dling, or remitting the surcharge except for in-
16 terest accruing to the company after collection
17 and before remittance.”.

18 (d) APPLICABILITY.—The amendments made by sub-
19 sections (a), (b), and (c) shall apply with respect to a pri-
20 vate flood insurance policy that is newly issued or renewed
21 after the date of enactment of this Act.

22 (e) DEFINITION OF PRIVATE FLOOD INSURANCE.—
23 Section 1370(a) of the National Flood Insurance Act of
24 1968 (42 U.S.C. 4121(a)) is amended—

1 (1) in paragraph (14), by striking “and” at the
2 end;

3 (2) in paragraph (15), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(16) the term ‘private flood insurance’ has the
7 meaning given the term in section 102(b) of the
8 Flood Disaster Protection Act of 1973 (42 U.S.C.
9 4012a(b)).”.

10 (f) TECHNICAL AND CONFORMING AMENDMENT.—
11 Section 1308A(a)(1) of the National Flood Insurance Act
12 of 1968 (42 U.S.C. 4015a(a)(1)), as so designated by sub-
13 section (a)(1) of this section, is amended, in the second
14 sentence, by striking “section 1304(b)” and inserting
15 “section 1304(c)”.

16 **SEC. 405. PILOT PROGRAM.**

17 Not later than 1 year after the date of enactment
18 of this Act, the Administrator shall establish a 5-year pilot
19 program—

20 (1) that involves risk sharing under the Na-
21 tional Flood Insurance Program; and

22 (2) under which—

23 (A) the Administrator shall determine
24 which structures shall be covered under the
25 pilot program;

1 (B) Write Your Own companies, or other-
2 wise qualified insurance companies, shall as-
3 sume a first-loss position with respect to claims
4 that are not greater than \$50,000 for struc-
5 tures covered under the pilot program; and

6 (C) the National Flood Insurance Program
7 shall assume a secondary loss position with re-
8 spect to all structures covered under the pilot
9 program.

10 **TITLE V—MODERNIZING FLOOD**
11 **MAPPING AND FLOOD RISK**
12 **ACCURACY**

13 **SEC. 501. REAUTHORIZATION OF NATIONAL FLOOD MAP-**
14 **PING PROGRAM.**

15 Section 100216(f) of the Biggert-Waters Flood In-
16 surance Reform Act of 2012 (42 U.S.C. 4101b(f)) is
17 amended—

18 (1) by striking “to carry out this section
19 \$400,000,000” and inserting the following: “to carry
20 out this section—

21 “(1) \$400,000,000”; and

22 (2) by striking the period at the end and insert-
23 ing the following: “; and

24 “(2) \$500,000,000 for each of fiscal years 2018
25 through 2027.”.

1 **SEC. 502. MAPPING STANDARDS AND GUIDELINES FOR**
2 **NONGOVERNMENTAL ENTITIES.**

3 Section 100215(c)(2) of the Biggert-Waters Flood
4 Insurance Reform Act of 2012 (42 U.S.C. 4101a(c)(2))
5 is amended, in the matter preceding subparagraph (A),
6 by inserting after “to the Administrator” the following:
7 “, and to non-government entities to help communities
8 provide more accurate technical data to the Adminis-
9 trator.”.

10 **SEC. 503. USE OF HIGH-RESOLUTION MAPPING TECH-**
11 **NOLOGY.**

12 (a) **IN GENERAL.**—Section 100216(b)(1) of the
13 Biggert-Waters Flood Insurance Reform Act of 2012 (42
14 U.S.C. 4101b(b)(1)) is amended—

15 (1) in subparagraph (A)(i), by inserting “sub-
16 ject to subparagraph (D),” before “all populated
17 areas”;

18 (2) in subparagraph (B), by striking “and” at
19 the end;

20 (3) in subparagraph (C), by striking the period
21 at the end and inserting the following: “, including
22 by facilitating, partnering with other Federal, State,
23 and local agencies with respect to, and leveraging
24 the efficient acquisition of the most up-to-date high-
25 resolution topographic data, such as Light Detection

1 and Ranging (commonly known as ‘LiDAR’) data
2 and other new and emerging technologies; and”;
3 (4) by adding at the end the following:

4 “(D) transition from identifying the 100-
5 year floodplain and associated base flood ele-
6 vation as the basis for insurance rating pur-
7 poses to determining structure-specific flood
8 frequencies and associated flood elevations, in-
9 cluding by using the most up-to-date high-reso-
10 lution topographic data as required under sub-
11 paragraph (C), in order to reduce flood risk and
12 improve the accuracy of National Flood Insur-
13 ance Program rate maps.”.

14 (b) REPORT.—Not later than 180 days after the date
15 of enactment of this Act, the Administrator shall submit
16 to Congress a report on compliance by the Administrator
17 with the requirement under subparagraphs (C) and (D)
18 of section 100216(b)(1) of the Biggert-Waters Flood In-
19 surance Reform Act of 2012 (42 U.S.C. 4101b(b)(1)), as
20 amended by subsection (a), to use the most up-to-date
21 high-resolution topographic data on a structure-specific
22 basis in order to reduce flood risk and improve the accu-
23 racy of National Flood Insurance Program rate maps.

1 **SEC. 504. PROTECTED AREAS.**

2 Section 100216(b) of the Biggert-Waters Flood In-
3 surance Reform Act of 2012 (42 U.S.C. 4101b(b)) is
4 amended by adding at the end the following:

5 “(4) PROTECTED AREAS.—The Administrator
6 shall replace the Zone D designation, in areas pro-
7 tected by flood control structures or non-structural
8 flood mitigation features, with risk zones that are
9 more appropriate for the level of protection provided
10 by the structure or feature.”.

11 **SEC. 505. COASTAL FLOOD MODELS.**

12 Section 100216(b) of the Biggert-Waters Flood In-
13 surance Reform Act of 2012 (42 U.S.C. 4101b(b)), as
14 amended by section 504, is amended by adding at the end
15 the following:

16 “(5) COASTAL FLOOD MODELS.—In updating
17 maps under this section, the Administrator shall use
18 the most current coastal flood models available to
19 ensure technically and scientifically accurate mod-
20 eling that better represents and communicates flood
21 risk.”.

1 **TITLE VI—ENHANCING NA-**
2 **TIONAL FLOOD INSURANCE**
3 **PROGRAM TRANSPARENCY**
4 **AND ACCOUNTABILITY**

5 **SEC. 601. DEADLINE FOR APPROVAL OF CLAIMS.**

6 (a) IN GENERAL.—Section 1312 of the National
7 Flood Insurance Act of 1968 (42 U.S.C. 4019) is amended
8 by adding at the end the following:

9 “(d) DEADLINE FOR APPROVAL OF CLAIMS.—

10 “(1) IN GENERAL.—The Administrator shall
11 provide that, in the case of a claim for damage to
12 or loss of property covered by flood insurance made
13 available under this title—

14 “(A) except as provided in paragraph (2),
15 not later than 30 days after the date on which
16 the claim is made—

17 “(i) a final determination regarding
18 approval of the claim for payment or dis-
19 approval of the claim shall be made; and

20 “(ii) notification of the determination
21 shall be provided to the insured making
22 the claim; and

23 “(B) payment of an approved claim shall
24 be made as soon as possible after such ap-
25 proval.

1 “(2) EXTENSION OF DEADLINE.—The Adminis-
2 trator—

3 “(A) shall provide that the period de-
4 scribed in paragraph (1)(A) may be extended by
5 a single additional period of 15 days under ex-
6 traordinary circumstances; and

7 “(B) shall, by regulation, establish criteria
8 for—

9 “(i) demonstrating such extraordinary
10 circumstances; and

11 “(ii) determining to which claims such
12 extraordinary circumstances apply.”.

13 (b) APPLICABILITY.—The amendment made by sub-
14 section (a) shall apply to any claim for damage to or loss
15 of property covered by flood insurance made available
16 under the National Flood Insurance Act of 1968 (42
17 U.S.C. 4001 et seq.) that is pending on, or made after,
18 the date of enactment of this Act.

19 **SEC. 602. FLOOD INSURANCE TRANSPARENCY, ACCOUNT-**
20 **ABILITY, AND REFORM.**

21 (a) REPORTS AND OTHER CLAIM-RELATED DOCU-
22 MENTS.—Section 1312 of the National Flood Insurance
23 Act of 1968 (42 U.S.C. 4019), as amended by section 601,
24 is amended by adding at the end the following:

1 “(e) FINAL ENGINEERING REPORTS.—The Adminis-
2 trator shall require that, in the case of any on-site inspec-
3 tion of a property by an engineer for the purpose of assess-
4 ing any claim for losses covered by a policy for flood insur-
5 ance coverage provided under this title (referred to in this
6 subsection as a ‘covered claim’), the final engineering re-
7 port shall be provided to the insured under the policy, as
8 follows:

9 “(1) TIMING.—The final engineering report
10 may not be transmitted to any other person, em-
11 ployer, agency, or entity, before it is transmitted to
12 the insured.

13 “(2) PROHIBITION ON ALTERATIONS; CERTIFI-
14 CATION.—The final engineering report may not in-
15 clude alterations by, or at the request of, anyone
16 other than the responsible in charge for the report
17 and shall include a certification, signed by the re-
18 sponsible in charge for the report, that it does not
19 contain any such alterations.

20 “(3) TRANSMITTAL.—The final engineering re-
21 port shall be transmitted to the insured in a manner
22 prescribed by the Administrator that provides rea-
23 sonable assurance that it was transmitted directly to
24 the insured by the responsible in charge.

1 “(4) REPORTS COVERED.—For purposes of this
2 subsection, the term ‘final engineering report’ means
3 an engineering report, survey, or other document in
4 connection with the covered claim that—

5 “(A) is based on the on-site inspection;

6 “(B) contains final conclusions with re-
7 spect to an engineering issue or issues involved
8 in the claim; and

9 “(C) is signed by the responsible in charge
10 or affixed with the seal of the responsible in
11 charge, or both.

12 “(f) CLAIMS ADJUSTMENT REPORTS.—The Adminis-
13 trator shall require that, in the case of any on-site inspec-
14 tion of a property by a claims adjustor for the purpose
15 of assessing any claim for losses covered by a policy for
16 flood insurance coverage provided under this title (referred
17 to in this subsection as a ‘covered claim’), any report shall
18 be provided to the insured under the policy, as follows:

19 “(1) TIMING.—The report may not be trans-
20 mitted to any other person, employer, agency, or en-
21 tity, before it is transmitted to the insured.

22 “(2) PROHIBITION ON ALTERATIONS; CERTIFI-
23 CATION.—The report may not include alterations by,
24 or at the request of, anyone other than the preparer
25 of the report and shall include a certification, signed

1 by the preparer, that it does not contain any such
2 alterations.

3 “(3) TRANSMITTAL.—The report shall be trans-
4 mitted to the insured in a manner prescribed by the
5 Administrator that provides reasonable assurance
6 that it was transmitted directly to the insured by the
7 preparer.

8 “(4) REPORTS COVERED.—For purposes of this
9 subsection, the term ‘report’—

10 “(A) means any report or document in
11 connection with the covered claim that is based
12 on the on-site inspection by the claims adjustor,
13 including any adjustment report and field re-
14 port;

15 “(B) includes any draft, preliminary
16 version, or copy of a report described in sub-
17 paragraph (A) and any amendments or addi-
18 tions to any such report; and

19 “(C) does not include a final engineering
20 report, as that term is defined for purposes of
21 subsection (e).

22 “(g) OTHER CLAIM-RELATED DOCUMENTS.—

23 “(1) DEFINITION OF CLAIM-RELATED DOCU-
24 MENT.—In this subsection, the term ‘claim-related
25 document’ means any document, other than a final

1 engineering report (as defined in subsection (e)) or
2 a report (as defined in subsection (f)), that was pre-
3 pared for the purposes of assessing a claim for
4 losses covered by flood insurance made available
5 under this title, including—

6 “(A) a repair and replacement estimate or
7 bid;

8 “(B) an appraisal;

9 “(C) a scope of loss;

10 “(D) a drawing;

11 “(E) a plan;

12 “(F) a report, including a draft report pre-
13 pared based on an on-site inspection of a prop-
14 erty conducted by a claims adjustor or engineer;

15 “(G) a third-party finding on the amount
16 of loss, amount of covered damage, or cost of
17 repairs; and

18 “(H) any other valuation, measurement, or
19 loss adjustment calculation of the amount of
20 loss, amount of covered damage, or cost of re-
21 pairs.

22 “(2) AVAILABILITY OF DOCUMENTS.—Any enti-
23 ty servicing a claim under the national flood insur-
24 ance program—

1 “(A) shall retain each claim-related docu-
2 ment prepared by or for the entity;

3 “(B) upon request by a claimant or an au-
4 thorized representative of a claimant, shall pro-
5 vide to the claimant or representative a copy of
6 any claim-related document described in sub-
7 paragraph (A) that pertains to the claimant;
8 and

9 “(C) not later than 30 days after receiving
10 notice of a claim, shall notify the claimant that
11 the claimant or an authorized representative of
12 the claimant may obtain, upon request, a copy
13 of any claim-related document described in sub-
14 paragraph (A) that pertains to the claimant.”.

15 (b) JUDICIAL REVIEW.—

16 (1) GOVERNMENT PROGRAM WITH INDUSTRY
17 ASSISTANCE.—Section 1341 of the National Flood
18 Insurance Act of 1968 (42 U.S.C. 4072) is amended
19 by striking “SEC. 1341.” and all that follows and in-
20 serting the following:

21 “SEC. 1341. (a) ADJUSTMENT AND PAYMENT OF
22 CLAIMS.—If the program is carried out as provided in sec-
23 tion 1340, the Administrator may adjust and make pay-
24 ment of any claims for proved and approved losses covered
25 by flood insurance.

1 “(b) JUDICIAL REVIEW.—Upon the disallowance by
2 the Administrator of a claim described in subsection (a),
3 or upon the refusal of the claimant to accept the amount
4 allowed upon a claim described in subsection (a)—

5 “(1) the claimant may institute an action
6 against the Administrator on the claim in the United
7 States district court for the district in which the in-
8 sured property or the major part thereof shall have
9 been situated—

10 “(A) not later than 2 years after the date
11 of the occurrence of the losses involved in the
12 claim; or

13 “(B) in the case of a denial of a claim for
14 losses that is appealed to the Administrator, not
15 later than the later of—

16 “(i) 90 days after the date of a final
17 determination upon appeal denying the
18 claim in whole or in part; or

19 “(ii) 2 years after the date of the oc-
20 currence of the losses involved in the claim;
21 and

22 “(2) a court described in paragraph (1) shall
23 have original exclusive jurisdiction to hear and deter-
24 mine the action without regard to the amount in
25 controversy.

1 “(c) PRIVATE RIGHTS OF ACTION.—Nothing in this
2 section, or in any regulation or policy implementing the
3 national flood insurance program, shall be construed to
4 preclude a private right of action under any Federal stat-
5 ute by a policyholder against a private entity for fraud
6 arising from the handling or disposition of a claim for
7 losses under this title.”.

8 (2) INDUSTRY PROGRAM WITH FEDERAL FINAN-
9 CIAL ASSISTANCE.—Section 1333 of the National
10 Flood Insurance Act of 1968 (42 U.S.C. 4053) is
11 amended by striking “SEC. 1333.” and all that fol-
12 lows and inserting the following:

13 “SEC. 1333. (a) ADJUSTMENT AND PAYMENT OF
14 CLAIMS.—The insurance companies and other insurers
15 that form, associate, or otherwise join together in the pool
16 under this part may adjust and pay all claims for proved
17 and approved losses covered by flood insurance in accord-
18 ance with the provisions of this title.

19 “(b) JUDICIAL REVIEW.—Upon the disallowance by
20 any company or other insurer described in subsection (a)
21 of a claim described in that subsection, or upon the refusal
22 of the claimant to accept the amount allowed upon a claim
23 described in that subsection—

24 “(1) the claimant may institute an action on
25 the claim against the company or other insurer in

1 the United States district court for the district in
2 which the insured property or the major part thereof
3 shall have been situated—

4 “(A) not later than 2 years after the date
5 of the occurrence of the losses involved in the
6 claim; or

7 “(B) in the case of a denial of a claim for
8 losses that is appealed to the Administrator, not
9 later than the later of—

10 “(i) 90 days after the date of a final
11 determination upon appeal denying the
12 claim in whole or in part; or

13 “(ii) 2 years after the date of the oc-
14 currence of the losses involved in the claim;
15 and

16 “(2) a court described in paragraph (1) shall
17 have original exclusive jurisdiction to hear and deter-
18 mine the action without regard to the amount in
19 controversy.”.

20 (c) FLOOD INSURANCE ADVOCATE.—Section 24(b) of
21 the Homeowner Flood Insurance Affordability Act of 2014
22 (42 U.S.C. 4033(b)) is amended—

23 (1) in paragraph (4), by striking “and” at the
24 end;

1 (2) in paragraph (5), by striking the period at
2 the end and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(6) provide a direct point of contact for policy-
5 holders under the National Flood Insurance Pro-
6 gram to discuss the status of their claim appeals
7 and the basis of the decision to initially deny their
8 claims.”.

9 (d) RECORDS AND REVIEWS.—Section 1348 of the
10 National Flood Insurance Act of 1968 (42 U.S.C. 4084)
11 is amended by adding at the end the following:

12 “(c) ANNUAL REVIEW.—The Administrator shall
13 conduct an annual review of each private entity partici-
14 pating in the national flood insurance program, including
15 any company that has entered into a contract with a Write
16 Your Own company to provide any service related to a pol-
17 icy or claim under the national flood insurance program,
18 including adjusting, engineering, and legal services, to en-
19 sure compliance with this title and with all policies and
20 procedures established by the Administrator to prevent
21 fraud and protect policyholders.”.

22 (e) PUBLICATION OF CLAIMS DATA.—Section 1312
23 of the National Flood Insurance Act of 1968 (42 U.S.C.
24 4019), as amended by subsection (a), is amended by add-
25 ing at the end the following:

1 “(h) PUBLICATION OF CLAIMS DATA.—Not later
2 than 1 year after the date of enactment of the Flood In-
3 surance Affordability and Sustainability Act of 2017, the
4 Administrator shall create and maintain a publically
5 searchable online database that includes, with respect to
6 claims filed under the national flood insurance program
7 after that date of enactment—

8 “(1) the number of claims filed each month,
9 broken down by State;

10 “(2) the number of claims paid in part or in
11 full;

12 “(3) the number of claims denied and the rea-
13 sons cited for each denial; and

14 “(4) the number of claim denials appealed, the
15 number of claim denials upheld on appeal, and the
16 number of claim denials overturned on appeal.”.

17 (f) ENGINEERING AND LITIGATION COSTS.—Section
18 1311 of the National Flood Insurance Act of 1968 (42
19 U.S.C. 4018) is amended by adding at the end the fol-
20 lowing:

21 “(c) ENGINEERING AND LITIGATION COSTS.—The
22 Administrator shall—

23 “(1) in order to ensure that taxpayer funds are
24 being appropriately expended, establish clear guide-
25 lines and standards to require that any engineering

1 or litigation cost billed to the national flood insur-
2 ance program by a Write Your Own company is jus-
3 tified on a case-by-case basis, both by the entity that
4 originally incurs the cost and by the Write Your
5 Own company; and

6 “(2) enforce compliance with the guidelines and
7 standards established under paragraph (1).”.

8 (g) EARTH MOVEMENT.—Section 1306 of the Na-
9 tional Flood Insurance Act of 1968 (42 U.S.C. 4013) is
10 amended by adding at the end the following:

11 “(e) EARTH MOVEMENT.—A flood insurance claim
12 filed under this title for damage to or loss of property may
13 not be denied based on the earth movement exclusion in
14 the Standard Flood Insurance Policy if the claim is filed
15 as the result of a flood, including a claim for damage to
16 or loss or property caused by earth movement that was
17 caused by a flood.”.

18 (h) APPEALS PROCESS.—Section 205 of the Bun-
19 ning-Bereuter-Blumenauer Flood Insurance Reform Act
20 of 2004 (42 U.S.C. 4011 note) is amended—

21 (1) by striking “Not later than” and inserting
22 “(a) IN GENERAL.—Not later than”; and

23 (2) by adding at the end the following:

24 “(b) REVIEW OF APPEALS.—

1 “(1) CLARITY.—The Director shall ensure that
2 the appeals process established under subsection (a)
3 has clear rules, forms, and deadlines.

4 “(2) NOTIFICATION UPON INITIAL DENIAL OF
5 CLAIM.—The Director shall ensure that a claimant
6 is provided with the rules, forms, and deadlines de-
7 scribed in paragraph (1) at the time a claim is first
8 denied in full or in part, including—

9 “(A) the effective date of the denial;

10 “(B) a justification for the denial, includ-
11 ing supporting documentation;

12 “(C) the date on which the period of limi-
13 tation for instituting an action against the Ad-
14 ministrator on the claim under section 1341 of
15 the National Flood Insurance Act of 1968 (42
16 U.S.C. 4072) will end; and

17 “(D) a point of contact through which the
18 claimant can directly discuss an appeal with a
19 representative of the Federal Emergency Man-
20 agement Agency.

21 “(3) NOTIFICATION UPON DENIAL OF AP-
22 PEAL.—If the Administrator denies an appeal filed
23 by a policyholder, the Administrator shall include
24 with the notice of denial an explanation of the pol-

1 icyholder’s legal options for further challenging the
2 denial.”.

3 (i) DEFINITION OF WRITE YOUR OWN COMPANY.—
4 Section 1370(a) of the National Flood Insurance Act of
5 1968 (42 U.S.C. 4121(a)), as amended by section 404(d)
6 of this Act, is further amended—

7 (1) in paragraph (15), by striking “and” at the
8 end;

9 (2) in paragraph (16), by striking the period at
10 the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(17) the term ‘Write Your Own company’
13 means a company participating in the cooperative
14 undertaking between the insurance industry and the
15 Federal Insurance and Mitigation Administration
16 that allows participating property and casualty in-
17 surance companies to write and service standard
18 flood insurance policies.”.

19 **SEC. 603. REPORTS TO CONGRESS.**

20 (a) DEFINITION.—In this section, the term “Task
21 Force” means the National Flood Insurance Program
22 Transformation Task Force established by the Federal
23 Emergency Management Agency.

24 (b) REPORT TO CONGRESS ON ACCOUNTABILITY FOR
25 DEFRAUDING POLICYHOLDERS.—Not later than 90 days

1 after the date of enactment of this Act, the Secretary of
2 Homeland Security shall submit to Congress a report on
3 specific actions the Department of Homeland Security will
4 take to identify individuals and private entities that have
5 engaged in activities to defraud policyholders under the
6 National Flood Insurance Program following Superstorm
7 Sandy and prevent those individuals and private entities
8 from continuing to receive Federal funding through—

9 (1) contracts with, or employment by, a Write
10 Your Own company; or

11 (2) employment by the Federal Emergency
12 Management Agency.

13 (c) REPORT TO CONGRESS ON RECOMMENDATIONS
14 OF THE NFIP TRANSFORMATION TASK FORCE.—Not
15 later than 1 year after the date of enactment of this Act,
16 the Administrator shall submit to Congress a report that
17 describes—

18 (1) the recommendations of the Task Force for
19 reforming the National Flood Insurance Program;

20 (2) a timeline for implementing the rec-
21 ommendations of the Task Force; and

22 (3) any recommendations of the Task Force
23 that require additional legislation.