

NATIONAL FLOOD INSURANCE PROGRAM COMMITMENT
TO POLICYHOLDERS AND REFORM ACT OF 2005

FEBRUARY 1, 2006.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4320]

The Committee on Financial Services, to whom was referred the bill (H.R. 4320) to restore the financial solvency of the national flood insurance program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Flood Insurance Program Commitment to Policyholders and Reform Act of 2005”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the amount of the flood insurance claims resulting from Hurricane Katrina and Hurricane Rita will likely exceed the aggregate amount of all claims previously paid in the history of the national flood insurance program, and will require an increase in the program’s borrowing authority;

(2) flood insurance policyholders have a legitimate expectation that they will receive fair and timely compensation for losses covered under their policies;

(3) substantial flooding has occurred, and will likely occur again, outside of the areas designated as the 100-year floodplain;

(4) to adequately and correctly assess potential flood damage and losses in all areas of the United States, the national flood insurance program will need to update its flood maps with the latest technology;

(5) the maximum coverage limits for flood insurance policies should be increased to reflect inflation and the increased cost of housing;

(6) significant reforms to the national flood insurance program required in the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 have yet to be implemented; and

(7) despite reforms required in the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, the national flood insurance program requires a modernized and updated administrative model to ensure that the people of the United States have continued access to flood insurance.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect the integrity of the national flood insurance program by fully funding existing legal obligations expected by existing policyholders who have paid policy premiums in return for flood insurance coverage;

(2) to increase incentives for homeowners and communities to participate in the national flood insurance program and to improve oversight to ensure full participation in the program for owners of properties for which such participation is mandatory;

(3) to increase awareness of homeowners of flood risks and improve the quality of information regarding such risks provided to homeowners; and

(4) to better mitigate future flood damage risks through a combination of enhanced protective measures, property elevation, and buyouts of flood-prone properties.

SEC. 3. STUDY REGARDING MANDATORY PURCHASE REQUIREMENT FOR 500-YEAR FLOODPLAIN AND REPORTS REGARDING FLOOD MAP MODERNIZATION.

(a) STUDY REGARDING MANDATORY PURCHASE REQUIREMENT FOR 500-YEAR FLOODPLAIN.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding the impact, effectiveness, and feasibility of amending the provisions of the Flood Disaster Protection Act of 1973 regarding the properties that are subject to the mandatory flood insurance coverage purchase requirements under such Act to extend such requirements to all properties located in the 500-year floodplain.

(2) ISSUES.—The study under this subsection shall assess—

(A) the regulatory, financial and economic impacts of extending such requirements on the costs of homeownership, the actuarial soundness of the national flood insurance program, the Federal Emergency Management Agency, local communities, insurance companies, and local land use;

(B) the effectiveness of extending such requirements in protecting homeowners from financial loss and in protecting the financial soundness of the national flood insurance program, and the effectiveness of extending such requirements in comparison with providing for more effective enforcement of existing mandatory flood insurance purchase requirements;

(C) the feasibility of extending such requirements taking into consideration the need for identifying and mapping the 500-year floodplain;

(D) any liability on the part of lenders to comply with or enforce such extended requirements;

(E) any burdens on building officials and flood plain managers to implement such requirements in the expanded area;

(F) any increased burden on the Federal Emergency Management Agency to make determinations on exemptions to the floodplain and approval of local decisions;

(G) the effects of extending such requirements on existing policy holders of flood insurance coverage for properties located in the 100-year floodplain, including the effects on continued compliance and premium rates; and

(H) the effects of extending such requirements on the ability of homeowners to make renovations to their homes.

(3) REPORT.—The Comptroller General shall submit a report to the Congress regarding the results and conclusions of the study under this subsection not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

(b) ANNUAL FLOOD MAP MODERNIZATION REPORTS AND CERTIFICATION OF COMPLETION.—

(1) IN GENERAL.—During the period that ends upon the completion by the Director of the Federal Emergency Management Agency of the updating and modernization of all floodplain areas and flood-risk zones, the Director shall submit a report annually to the Congress describing the extent to which such updating and modernization has been completed. Upon the completion of such updating, the Director shall submit to the Congress, and cause to be published in the Federal Register, a report certifying such completion.

(2) TIMING.—The first report under this subsection shall be submitted not later than June 30, 2006, and successive reports required under this subsection during the period referred to in paragraph (1) shall be submitted not later than June 30 of each year during such period.

SEC. 4. ENFORCEMENT.

Paragraph (5) of section 102(f) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012(a)) is amended—

- (1) by striking “\$350” and inserting “\$2,000”; and
- (2) by striking the last sentence.

SEC. 5. REITERATION OF FEMA RESPONSIBILITIES UNDER 2004 REFORM ACT.

(a) APPEALS PROCESS.—As directed in section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note), the Director of the Federal Emergency Management Agency is again directed to, not later than 90 days after the date of the enactment of this Act, establish an appeals process through which holders of a flood insurance policy may appeal the decisions, with respect to claims, proofs of loss, and loss estimates relating to such flood insurance policy as required by such section.

(b) MINIMUM TRAINING AND EDUCATION REQUIREMENTS.—The Director of the Federal Emergency Management Agency is directed to enforce the minimum training and education requirements for all insurance agents who sell flood insurance policies that have been established under the notice published September 1, 2005 (70 Fed. Reg. 52117) pursuant to section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).

(c) MITIGATION PROGRAMS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall issue regulations necessary to implement the amendments made by sections 102, 103, 104, and 105 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (118 Stat. 714 et seq.).

(d) REPORT.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report to the Congress describing the implementation of each provision of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108–264) and identifying each regulation, order, notice, and other material issued by the Director in implementing each such provision.

SEC. 6. MAXIMUM COVERAGE LIMITS.

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

- (1) in paragraph (2), by striking “\$250,000” and inserting “\$335,500”;
- (2) in paragraph (3), by striking “\$100,000” and inserting “\$135,000”; and
- (3) in paragraph (4), by striking “\$500,000” each place such term appears and inserting “\$670,700”.

SEC. 7. COVERAGE FOR ADDITIONAL LIVING EXPENSES AND BUSINESS INTERRUPTION.

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

(1) in paragraph (4), by striking “and” at the end;
 (2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

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

“(6) in the case of any residential property, each renewal or new contract for flood insurance coverage shall provide not less than \$1,000 aggregate liability per dwelling unit for any necessary increases in living expenses incurred by the insured when losses from a flood make the residence unfit to live in, which coverage shall be available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);

“(7) in the case of any residential property, coverage for additional living expenses described in paragraph (6) shall be made available to every insured upon renewal and every applicant in excess of the limits provided in paragraph (6) in such amounts and at such rates as the Director shall establish, except that such chargeable rates shall not be less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1); and

“(8) in the case of any commercial property, optional coverage for losses resulting from any partial or total interruption of the insured’s business caused by damage to, or loss of, such property from a flood shall be made available to every insured upon renewal and every applicant, except that—

“(A) for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood not occurred; and

“(B) such coverage shall be made available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1).”.

SEC. 8. INCREASE IN BORROWING AUTHORITY.

(a) **BORROWING AUTHORITY.**—The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (Public Law 109–65; 119 Stat. 1998), is amended by striking “\$3,500,000,000” and inserting “\$22,000,000,000”.

(b) **FEMA REPORT.**—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report to the Congress setting forth a plan for repaying any amounts borrowed pursuant to increase in borrowing authority authorized under the amendments made by subsection (a).

SEC. 9. CLARIFICATION OF REPLACEMENT COST PROVISIONS, FORMS, AND POLICY LANGUAGE.

Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall—

(1) issue regulations, and revise any materials made available by such Agency, to clarify the applicability of replacement cost coverage under the national flood insurance program;

(2) revise any regulations, forms, notices, guidance, and publications relating to the full cost of repair or replacement under the replacement cost coverage to more clearly describe such coverage to flood insurance policyholders and information to be provided by such policyholders relating to such coverage, and to avoid providing misleading information to such policyholders; and

(3) revise the language in standard flood insurance policies under such program regarding rating and coverage descriptions in a manner that is consistent with language used widely in other homeowners and property and casualty insurance policies, including such language regarding classification of buildings, basements, crawl spaces, detached garages, enclosures below elevated buildings, and replacement costs.

SEC. 10. FEMA REPORTS ON FINANCIAL STATUS OF INSURANCE PROGRAM.

Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) is amended—

(1) in the section heading, by striking “REPORT TO THE PRESIDENT” and inserting “REPORTS”;

(2) in subsection (a), by striking “IN GENERAL” and inserting “BIENNIAL REPORT TO PRESIDENT”; and

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

“(c) **SEMIANNUAL REPORTS TO CONGRESS ON FINANCIAL STATUS.**—Not later than June 30 and December 31 of each year, the Director shall submit a report to the

Congress regarding the financial status of the national flood insurance program under this title. Each such report shall describe the financial status of the National Flood Insurance Fund and current and projected levels of claims, premium receipts, expenses, and borrowing under the program.”.

SEC. 11. NOTICE OF AVAILABILITY OF FLOOD INSURANCE IN RESPA GOOD FAITH ESTIMATE.

Subsection (c) of section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(c)) is amended by adding at the end the following new sentence: “Each such good faith estimate shall include a conspicuous statement that flood insurance coverage for residential real estate is generally available under the National Flood Insurance Program whether or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact a hazard insurance provider.”.

SEC. 12. ELIGIBILITY OF PROPERTY DEMOLITION AND REBUILDING FOR MITIGATION ASSISTANCE PROGRAM.

Subparagraph (B) of section 1366(e)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(e)(5)(B)) is amended by inserting before the semicolon at the end the following: “, or the demolition and rebuilding of structures located in such areas to at least Base Flood Elevation or any higher elevation required by any local ordinance”.

SEC. 13. AUTHORIZATION OF ADDITIONAL FEMA STAFF.

Notwithstanding any other provision of law, the Director of the Federal Emergency Management Agency may employ such additional staff of such Agency as may be necessary to carry out all of the responsibilities of the Director pursuant to this Act and the amendments made by this Act. There are authorized to be appropriated to Director such sums as may be necessary for costs of employing such additional staff.

PURPOSE AND SUMMARY

To restore the financial solvency of the National Flood Insurance Program and to increase the accountability of the Federal Emergency Management Agency with respect to its administration of the program.

The National Flood Insurance Program Commitment to Policyholders and Reform Act of 2005 increases the borrowing authority for the National Flood Insurance Program to \$22 billion to help cover its contractual obligations to flood insurance policyholders, directs the Federal Emergency Management Agency to institute reforms in the program, increases the penalties for failure to enforce mandatory flood policy purchase requirements, and requires a study on mandatory flood insurance for mortgaged homes in the 500-year floodplain.

BACKGROUND AND NEED FOR LEGISLATION

Since 1986, the NFIP has been financially self-supporting for the average historical loss year. Consistent with statute, the NFIP borrowed from the U.S. Treasury during those years in which the nation experienced unusually high flood losses. These loans were repaid to the Treasury, with interest, from policyholder premiums and related fees.

National Flood Insurance Program claims liabilities arising from Hurricanes Katrina and Rita are estimated at between \$20 and \$30 billion, far surpassing the total claims paid in the entire history of the NFIP. On September 20, 2005, the President signed into law the National Flood Insurance Enhanced Borrowing Authority Act of 2005 (PL 109-65), which authorized the NFIP temporarily to borrow up to \$3.5 billion from the U.S. Treasury to pay claims. These additional funds were requested by FEMA and have since been exhausted as of November 7, 2005.

Representative Michael Fitzpatrick (PA) introduced H.R. 4133, the “National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005” on October 25, 2005. This legislation, which was marked up in Committee on October 26, would temporarily increase FEMA’s borrowing authority to pay flood claims by \$5 billion. According to FEMA, the increased borrowing authority should provide sufficient funds to cover claims through late November. H.R. 4133 passed the House under suspension of the rules on Wednesday, November 16. Until the Senate passes a similar borrowing authority increase, FEMA has advised those insurance companies participating in the NFIP “Write-Your-Own” program (companies that sell flood policies on FEMA’s behalf) that due to the absence of borrowing authority, the companies should stop processing claims.

FEMA is legally obligated to pay claims arising from flood events where policies are in place. Should the NFIP run out of money needed to pay the estimated 225,000 Katrina and Rita-related claims, homeowners whose claims are not paid could initiate legal action against FEMA and the U.S. Government.

H.R. 4320 increases the NFIP’s borrowing authority to \$22 billion and mandates numerous program reforms. Some of these reforms, found in the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, have yet to be implemented over a year after this legislation was signed into law. These include certain provisions for flood mitigation efforts for repeatedly-flooded properties and establishment of an appeals process through which holders of a flood insurance policy could appeal decisions with respect to claims and proof of loss.

H.R. 4320 further directs FEMA to continue to work with the insurance industry, state insurance regulators, and other interested parties to implement the minimum training and education standards for all insurance agents who sell flood insurance policies that FEMA established under the notice published September 1, 2005 (70 Fed. Reg. 52117) pursuant to section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).

In addition, H.R. 4320 requires a study of mandatory flood insurance purchase requirement for those people with a federally-backed mortgage who live in the 500-year floodplain; increases the fine for lenders who do not enforce the mandatory purchase requirement; increases for inflation the coverage limits for flood insurance policies; allows FEMA to offer coverage for living expenses and business interruption; and allows FEMA to provide funding through its mitigation assistance program for demolition and rebuilding of structures in the floodplain to higher elevations.

Additional provisions of the bill intended to increase accountability include a requirement that FEMA issue regulations and revise materials to clarify policy language to guard against misinterpretations by policyholders, report to Congress on the financial status of the NFIP twice a year, report on flood map modernization efforts once a year, and report on the Agency’s plan for repaying funds borrowed under the authority granted by this legislation; and a requirement that lenders provide notice to home buyers that flood insurance is available to all homeowners, not just those in a designated floodplain.

HEARINGS

No hearings were held on this legislation.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on November 16, 2005, and ordered H.R. 4320, National Flood Insurance Program Commitment to Policyholders and Reform Act of 2005, favorably reported to the House as amended by a voice vote.

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. During the consideration of the bill, the following record votes were taken. The names of Members voting for and against follow:

An amendment offered by Mr. Gary G. Miller of California, No. 3a, regarding the mandatory purchase requirement, as a substitute for the amendment offered by Mr. Baker, No. 3, regarding the mandatory purchase requirement, was AGREED TO by a record vote of 34 yeas and 31 nays (Record vote no. FC-6).

RECORD VOTE NO. FC-6

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Oxley		X		Mr. Frank (MA)		X	
Mr. Leach		X		Mr. Kanjorski	X		
Mr. Baker		X		Ms. Waters		X	
Ms. Pryce (OH)	X			Mr. Sanders	X		
Mr. Bachus		X		Mrs. Maloney	X		
Mr. Castle	X			Mr. Gutierrez		X	
Mr. King (NY)				Ms. Velázquez	X		
Mr. Royce	X			Mr. Watt		X	
Mr. Lucas	X			Mr. Ackerman			
Mr. Ney	X			Ms. Hooley		X	
Mrs. Kelly	X			Ms. Carson		X	
Mr. Paul	X			Mr. Sherman	X		
Mr. Gillmor		X		Mr. Meeks (NY)		X	
Mr. Ryun (KS)		X		Ms. Lee		X	
Mr. LaTourette	X			Mr. Moore (KS)		X	
Mr. Manzullo	X			Mr. Capuano		X	
Mr. Jones (NC)	X			Mr. Ford		X	
Mrs. Biggert		X		Mr. Hinojosa	X		
Mr. Shays		X		Mr. Crowley	X		
Mr. Fossella	X			Mr. Clay		X	
Mr. Gary G. Miller (CA)	X			Mr. Israel	X		
Mr. Tiberi	X			Mrs. McCarthy	X		
Mr. Kennedy (MN)	X			Mr. Baca	X		
Mr. Feeney		X		Mr. Matheson	X		
Mr. Hensarling		X		Mr. Lynch		X	
Mr. Garrett (NJ)	X			Mr. Miller (NC)		X	
Ms. Brown-Waite (FL)				Mr. Scott (GA)		X	
Mr. Barrett (SC)		X		Mr. Davis (AL)		X	
Ms. Harris				Mr. Al Green (TX)		X	
Mr. Renzi	X			Mr. Cleaver		X	
Mr. Gerlach	X			Ms. Bean		X	
Mr. Pearce				Ms. Wasserman Schultz		X	
Mr. Neugebauer	X			Ms. Moore (WI)	X		
Mr. Price (GA)	X						
Mr. Fitzpatrick (PA)	X						
Mr. Davis (KY)	X						

RECORD VOTE NO. FC-6—Continued

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. McHenry	X	.....	.....		

*Mr. Sanders is an independent, but caucuses with the Democratic Caucus.

An amendment (as modified) offered by Mr. Watt, No. 4, regarding temporary flood insurance buy-in, was NOT AGREED TO by a record vote of 32 yeas and 34 nays (Record vote no. FC-7).

RECORD VOTE NO. FC-7

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Oxley		X	.....	Mr. Frank (MA)	X	.....	.....
Mr. Leach		X	.....	Mr. Kanjorski .....	.....	X	.....
Mr. Baker		X	.....	Ms. Waters	X	.....	.....
Ms. Pryce (OH)		X	.....	Mr. Sanders	X	.....	.....
Mr. Bachus		X	.....	Mrs. Maloney	X	.....	.....
Mr. Castle		X	.....	Mr. Gutierrez	X	.....	.....
Mr. King (NY)	Ms. Velazquez	X	.....	.....
Mr. Royce		X	.....	Mr. Watt	X	.....	.....
Mr. Lucas		X	.....	Mr. Ackerman	X	.....	.....
Mr. Ney		X	.....	Ms. Hoolley	X	.....	.....
Mrs. Kelly		X	.....	Ms. Carson	X	.....	.....
Mr. Paul		X	.....	Mr. Sherman	X	.....	.....
Mr. Gillmor		X	.....	Mr. Meeks (NY)	X	.....	.....
Mr. Ryan (KS)		X	.....	Ms. Lee	X	.....	.....
Mr. LaTourette		X	.....	Mr. Moore (KS)	X	.....	.....
Mr. Manzullo		X	.....	Mr. Capuano	X	.....	.....
Mr. Jones (NC)		X	.....	Mr. Ford	X	.....	.....
Mrs. Biggert		X	.....	Mr. Hinojosa	X	.....	.....
Mr. Shays		X	.....	Mr. Crowley	X	.....	.....
Mr. Fossella		X	.....	Mr. Clay	X	.....	.....
Mr. Gary G. Miller (CA)		X	.....	Mr. Israel	X	.....	.....
Mr. Tiberi		X	.....	Mrs. McCarthy	X	.....	.....
Mr. Kennedy (MN)		X	.....	Mr. Baca	X	.....	.....
Mr. Feeney		X	.....	Mr. Matheson	X	.....	.....
Mr. Hensarling		X	.....	Mr. Lynch	X	.....	.....
Mr. Garrett (NJ)		X	.....	Mr. Miller (NC)	X	.....	.....
Ms. Brown-Waite (FL)	Mr. Scott (GA)	X	.....	.....
Mr. Barrett (SC)		X	.....	Mr. Davis (AL)	X	.....	.....
Ms. Harris		X	.....	Mr. Al Green (TX)	X	.....	.....
Mr. Renzi		X	.....	Mr. Cleaver	X	.....	.....
Mr. Gerlach		X	.....	Ms. Bean	X	.....	.....
Mr. Pearce	Ms. Wasserman Schultz	X	.....	.....
Mr. Neugebauer		X	.....	Ms. Moore (WI)	X	.....	.....
Mr. Price (GA)		X	.....			
Mr. Fitzpatrick (PA)		X	.....			
Mr. Davis (KY)		X	.....			
Mr. McHenry		X	.....			

*Mr. Sanders is an independent, but caucuses with the Democratic Caucus.

The following other amendments were also considered by the Committee:

An amendment offered by Mr. Oxley, No. 1, making various substantive and technical changes to the bill, was AGREED TO, by a voice vote.

An amendment offered by Mr. Frank, No. 2, regarding additional FEMA staff, was AGREED TO, by a voice vote.

An amendment offered by Mr. Baker, No. 3, regarding the mandatory purchase requirement, as amended by the substitute amendment offered by Mr. Gary G. Miller of California, No. 3a, regarding the mandatory purchase requirement, was AGREED TO, by a voice vote.

A motion by Mr. Oxley to report the bill, as amended, to the House with a favorable recommendation was AGREED TO by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in 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 establishes the following performance related goals and objectives for this legislation:

The goal of H.R. 4320 is to restore the financial solvency of the National Flood Insurance Program and to increase the accountability of the Federal Emergency Management Agency with respect to its administration of the program.

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 estimates 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, when received.

COMMITTEE COST ESTIMATE

The Committee will adopt 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, when received.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the cost estimate to be provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not received in time to be filed with this report.

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.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Arti-

cle 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

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 section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the “National Flood Insurance Program Commitment to Policyholders and Reform Act of 2005.”

Section 2. Findings and purposes

This section sets forth certain findings regarding the need for reform of and increased borrowing authority for the National Flood Insurance Program. This section also establishes the purposes of the Act.

Section 3. Study regarding mandatory purchase requirement for 500-year floodplain and reports regarding flood map modernization

This section requires the Comptroller General of the United States to conduct a study on the effects of extending mandatory flood insurance purchase requirements to all properties located in the 500-year floodplain, to be submitted to the Congress no later than 6 months from the enactment of this Act.

Section 4. Enforcement

This section amends paragraph (5) of section 102(f) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) by increasing to \$2,000 the fine levied against federally-regulated lending institutions for each failure to enforce mandatory flood insurance purchase requirements and removing the \$100,000 per year per institution cap on such fines.

Section 5. Reiteration of FEMA responsibilities under 2004 Reform Act

This section reiterates FEMA’s responsibility to implement provisions of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (P.L. 108–264) and directs FEMA to continue to work with the insurance industry, state insurance regulators, and other interested parties to implement the minimum training and education standards for all insurance agents who sell flood insurance policies that FEMA established under the notice published September 1, 2005 (70 Fed. Reg. 52117) pursuant to section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note). This section also mandates that FEMA submit a report to Congress on implementation of each provision of P.L. 108–264 no later than 6 months after the enactment of this Act.

Section 6. Maximum coverage limits

This section amends subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) by increasing the maximum coverage limits for flood insurance policies to reflect inflation. New coverage limits would be \$335,500 for residences; \$135,000 for residential contents; and \$670,700 for businesses and churches.

Section 7. Coverage for additional living expenses and business interruption

This section amends subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) by requiring FEMA to include in each renewal or new contract for flood insurance at least \$1,000 for living expenses following a flood event and requiring FEMA to provide actuarially-priced, optional business interruption coverage for flood losses.

Section 8. Increase in borrowing authority

This section amends subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (P.L. 109-65; 119 Stat. 1998), by increasing the National Flood Insurance Program's borrowing authority to \$22 billion. This section also requires that FEMA submit a report to Congress, not later than 6 months after enactment of this legislation, on how it intends to repay funds borrowed under this increased authority.

Section 9. Clarification of replacement cost provisions, forms, and policy language

This section directs FEMA to issue regulations and revise materials that it makes available through the NFIP to clarify the applicability of replacement cost coverage under the national flood insurance program.

Section 10. FEMA reports on financial status of insurance program

This section amends section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) by requiring a semiannual report to Congress on the financial status of the national flood insurance program.

Section 11. Notice of availability of flood insurance in RESPA good faith estimate

This section amends subsection (c) of section 5 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604) by requiring that each good faith estimate include a conspicuous statement that flood insurance coverage for residential real estate is generally available under the National Flood Insurance Program whether or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact a hazard insurance provider.

Section 12. Eligibility of property demolition and rebuilding for mitigation assistance program

This section amends subparagraph (B) of section 1366(e)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(e)(5)(B)) by granting FEMA the authority to provide funding for flood mitigation activities that involve the demolition and rebuilding of structures to at least Base Flood Elevation or higher.

Section 13. Authorization of additional FEMA staff

This section authorizes that such sums as necessary be appropriated for the Director of FEMA to employ additional staff necessary to carry out all of the responsibilities of the Director pursuant to this Act.

EXCHANGE OF COMMITTEE CORRESPONDENCE



U.S. House of Representatives
Committee on Transportation and Infrastructure

Don Young
 Chairman

Washington, DC 20515

February 1, 2006

James L. Oberstar
 Ranking Democratic Member

Lloyd A. Jones, Chief of Staff
 Elizabeth Megginson, Chief Counsel

David Heymsfeld, Democratic Chief of Staff

The Honorable Michael G. Oxley, Chairman
 Committee on Financial Services
 2129 Rayburn House Office Building
 Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 4320, the National Flood Insurance Program Commitment to Policyholders and Reform Act of 2005. Under House rule X, clause 1(r), the Transportation and Infrastructure Committee has jurisdiction over federal management of emergencies and natural disasters. This includes the Federal Emergency Management Agency.

Our Committee recognizes the importance of H.R. 4320 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over a number of provisions of the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our jurisdictional interest will be included in the Committee Report and as part of the *Congressional Record* during consideration of this bill by the House.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference on H.R. 4320 or similar legislation.

Thank you for your cooperation and leadership in flood insurance matters.

Sincerely,

DON YOUNG
 Chairman

cc: Hon. James L. Oberstar
 Hon. John V. Sullivan

MICHAEL G. OXLEY, OH, CHAIRMAN
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ROBERT H. FOSTER III
 Chief of Staff

U.S. House of Representatives
 Committee on Financial Services
 2129 Rayburn House Office Building
 Washington, DC 20515

February 1, 2006

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The Honorable Don Young
 Chairman
 Committee on Transportation and Infrastructure
 2165 Rayburn House Office Building
 U.S. House of Representatives
 Washington, D.C. 20515

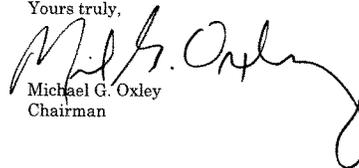
Dear Mr. Chairman:

Thank you for your letter of February 1, 2006, concerning H.R. 4320, the National Flood Insurance Program Commitment to Policyholders and Reform Act of 2005. This bill was reported by the Committee on Financial Services on November 16, 2005, and it is our hope that the House will address this issue shortly on the floor.

I want to confirm our mutual understanding concerning further consideration of this bill. I agree that H.R. 4320 as reported by this Committee implicated the jurisdiction of the Committee on Transportation and Infrastructure under rule X. However, I appreciate your willingness to waive further consideration of the bill in order to expedite its consideration. Your decision to forego a sequential referral of this bill in no way affects the jurisdiction of your Committee. I will include this exchange of correspondence in the Committee report and in the Congressional Record. I will support appropriate representation from the Committee on Transportation and Infrastructure in the event of a House-Senate conference.

Thank you for your cooperation and assistance in these important matters.

Yours truly,



Michael G. Oxley
 Chairman

MGO/td

cc: The Honorable Barney Frank

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, existing law in which no change is proposed is shown in roman):

SECTION 102 OF THE FLOOD DISASTER PROTECTION ACT OF 1973

FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS

SEC. 102. (a) * * *

* * * * *

(f) CIVIL MONETARY PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.—

(1) * * *

* * * * *

(5) AMOUNT.—A civil monetary penalty under this subsection may not exceed **[\$350]** \$2,000 for each violation under paragraph (2) or paragraph (3). **[The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed \$100,000.]**

* * * * *

NATIONAL FLOOD INSURANCE ACT OF 1968

TITLE XIII—NATIONAL FLOOD INSURANCE

SHORT TITLE

SEC. 1301. This title may be cited as the “National Flood Insurance Act of 1968”.

* * * * *

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 1306. (a) * * *

(b) In addition to any other terms and conditions under subsection (a), such regulations shall provide that—

(1) * * *

(2) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (i) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant of insurance so as to enable such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(i)) of **[\$250,000]** \$335,500;

(3) in the case of any residential property for which the risk premium rate is determined in accordance with the provisions

of section 1307(a)(1), additional flood insurance in excess of the limits specified in clause (ii) of subparagraph (A) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount (including such limits specified in paragraph (1)(A)(ii)) of ~~【\$100,000】~~ *\$135,000*;

(4) in the case of any nonresidential property, including churches, for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of ~~【\$500,000】~~ *\$670,700* for each structure and ~~【\$500,000】~~ *\$670,700* for any contents related to each structure; ~~【and】~~

(5) any flood insurance coverage which may be made available in excess of the limits specified in subparagraph (A), (B), or (C) of paragraph (1), shall be based only on chargeable premium rates under section 1308 which are not less than the estimated premium rates under section 1307(a)(1), and the amount of such excess coverage shall not in any case exceed an amount equal to the applicable limit so specified (or allocated) under paragraph (1)(C), (2), (3), or (4), as applicable~~【.】~~;

(6) in the case of any residential property, each renewal or new contract for flood insurance coverage shall provide not less than \$1,000 aggregate liability per dwelling unit for any necessary increases in living expenses incurred by the insured when losses from a flood make the residence unfit to live in, which coverage shall be available only at chargeable rates that are not less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1);

(7) in the case of any residential property, coverage for additional living expenses described in paragraph (6) shall be made available to every insured upon renewal and every applicant in excess of the limits provided in paragraph (6) in such amounts and at such rates as the Director shall establish, except that such chargeable rates shall not be less than the estimated premium rates for such coverage determined in accordance with section 1307(a)(1); and

(8) in the case of any commercial property, optional coverage for losses resulting from any partial or total interruption of the insured's business caused by damage to, or loss of, such property from a flood shall be made available to every insured upon renewal and every applicant, except that—

(A) for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood not occurred; and

(B) such coverage shall be made available only at chargeable rates that are not less than the estimated premium

rates for such coverage determined in accordance with section 1307(a)(1).

* * * * *

FINANCING

SEC. 1309. (a) All authority which was vested in the Housing and Home Finance Administrator by virtue of section 15(e) of the Federal Flood Insurance Act of 1956 (70 Stat. 1084) (pertaining to the issue of notes or other obligations or the Secretary of the Treasury), as amended by subsections (a) and (b) of section 1303 of this Act, shall be available to the Director for the purpose of carrying out the flood insurance program under this title; except that the total amount of notes and obligations which may be issued by the Director pursuant to such authority (1) without the approval of the President, may not exceed \$500,000,000, and (2) with the approval of the President, may not exceed \$1,500,000,000 through the date specified in section 1319, and \$1,000,000,000 thereafter; except that, through September 30, 2008, clause (2) of this sentence shall be applied by substituting “**[\$3,500,000,000]** \$22,000,000,000” for “\$1,500,000,000”. The Director shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at any time when he requests the approval of the President in accordance with the preceding sentence.

* * * * *

[REPORT TO THE PRESIDENT] REPORTS

SEC. 1320. (a) **[IN GENERAL] BIENNIAL REPORT TO PRESIDENT.**—The Director shall biennially submit a report of operations under this title to the President for submission to the Congress.

* * * * *

(c) **SEMIANNUAL REPORTS TO CONGRESS ON FINANCIAL STATUS.**—*Not later than June 30 and December 31 of each year, the Director shall submit a report to the Congress regarding the financial status of the national flood insurance program under this title. Each such report shall describe the financial status of the National Flood Insurance Fund and current and projected levels of claims, premium receipts, expenses, and borrowing under the program.*

* * * * *

MITIGATION ASSISTANCE

SEC. 1366. (a) * * *

* * * * *

(e) **ELIGIBLE MITIGATION ACTIVITIES.**—

(1) * * *

* * * * *

(5) **ELIGIBLE ACTIVITIES.**—The Director shall determine whether mitigation activities described in a mitigation plan submitted under subsection (d) comply with the requirements under paragraph (1). Such activities may include—

(A) * * *

(B) elevation, relocation, demolition, or floodproofing of structures (including public structures) located in areas having special flood hazards or other areas of flood risk, or the demolition and rebuilding of structures located in such areas to at least Base Flood Elevation or any higher elevation required by any local ordinance;

* * * * *

SECTION 5 OF THE REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974

SPECIAL INFORMATION BOOKLETS

SEC. 5. (a) * * *

* * * * *

(c) Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Secretary. *Each such good faith estimate shall include a conspicuous statement that flood insurance coverage for residential real estate is generally available under the National Flood Insurance Program whether or not the real estate is located in an area having special flood hazards and that, to obtain such coverage, a home owner or purchaser should contact a hazard insurance provider.*

* * * * *

ADDITIONAL VIEWS OF HON. BRAD SHERMAN

During the Committee's consideration of H.R. 4320, the Committee defeated by a roll call vote of 32 Ayes and 34 Nays an amendment offered by the Gentleman from North Carolina, Mr. Watt. I voted in favor of the amendment.

Mr. Watt's amendment would have allowed property owners affected by Hurricane Katrina—who did not live in a floodplain and who did not have, nor were they required to have, flood insurance—to purchase retro-active coverage under the National Flood Insurance Program.

I fully understand Mr. Watt's desire to implement meaningful relief legislation that could be implemented quickly to assist the victims of this devastating storm. I voted "yes," even knowing the amendment would fail. I did so to strengthen the hand of the Ranking Member, Mr. Frank, and others as we seek to negotiate some relief in this bill for those who lost their homes due to Hurricane Katrina and, without negligence, did not buy flood insurance to protect their properties.

BRAD SHERMAN.

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