

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 253**

OFFERED BY MR. BEREUTER

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Two Floods and You
3 Are Out of the Taxpayers’ Pocket Act of 2003”.

4 SEC. 2. CONGRESSIONAL FINDINGS.

5 The Congress finds that—

6 (1) the national flood insurance program (A)
7 identifies the flood risk, (B) provides flood risk in-
8 formation to the public, (C) encourages State and
9 local governments to make appropriate land use ad-
10 justments to constrict the development of land which
11 is exposed to flood damage and minimize damage
12 caused by flood losses, and (D) makes flood insur-
13 ance available on a nationwide basis that would oth-
14 erwise not be available, to accelerate recovery from
15 floods, mitigate future losses, save lives, and reduce
16 the personal and national costs of flood disasters;

17 (2) the national flood insurance program in-
18 sures approximately 4,400,000 policyholders;



1 (3) approximately 48,000 properties currently
2 insured under the program have experienced, within
3 a 10-year period, two or more flood losses where
4 each such loss exceeds the amount \$1,000;

5 (4) approximately 10,000 of these repetitive-
6 loss properties have experienced either two or three
7 losses that cumulatively exceed building value or
8 four or more losses, each exceeding \$1,000;

9 (5) repetitive-loss properties constitute a signifi-
10 cant drain on the resources of the national flood in-
11 surance program, costing about \$200,000,000 annu-
12 ally;

13 (6) repetitive-loss properties comprise approxi-
14 mately one percent of currently insured properties
15 but are expected to account for 25 to 30 percent of
16 claims losses;

17 (7) the vast majority of repetitive-loss prop-
18 erties were built before local community implementa-
19 tion of floodplain management standards under the
20 program and thus are eligible for subsidized flood in-
21 surance;

22 (8) while some property owners take advantage
23 of the program allowing subsidized flood insurance
24 without requiring mitigation action, others are
25 trapped in a vicious cycle of suffering flooding, then



1 repairing flood damage, then suffering flooding,
2 without the means to mitigate losses or move out of
3 harm's way;

4 (9) mitigation of repetitive-loss properties
5 through buyouts, elevations, relocations, or flood-
6 proofing will produce savings for policyholders under
7 the program and for Federal taxpayers through re-
8 duced flood insurance losses and reduced Federal
9 disaster assistance;

10 (10) a strategy of making mitigation offers
11 aimed at high-priority repetitive-loss properties and
12 shifting more of the burden of recovery costs to
13 property owners who choose to remain vulnerable to
14 repetitive flood damage can encourage property own-
15 ers to take appropriate actions that reduce loss of
16 life and property damage and benefit the financial
17 soundness of the program; and

18 (11) the method for addressing repetitive-loss
19 properties should be flexible enough to take into con-
20 sideration legitimate circumstances that may prevent
21 an owner from taking a mitigation action.

22 **SEC. 3. EXTENSION OF PROGRAM AND CONSOLIDATION OF**
23 **AUTHORIZATIONS.**

24 The National Flood Insurance Act of 1968 is amend-
25 ed as follows:



1 (1) BORROWING AUTHORITY.—In the first sen-
2 tence of section 1309(a) (42 U.S.C. 4016(a)), by
3 striking “through September” and all that follows
4 through “, and” and inserting the following:
5 “through the date specified in section 1319, and”.

6 (2) AUTHORITY FOR CONTRACTS.—In section
7 1319 (42 U.S.C. 4026), by striking “after” and all
8 that follows and inserting “after September 30,
9 2008.”.

10 (3) EMERGENCY IMPLEMENTATION.—In section
11 1336(a) (42 U.S.C. 4056(a)), by striking “during
12 the period” and all that follows through “in accord-
13 ance” and inserting “during the period ending on
14 the date specified in section 1319, in accordance”.

15 (4) AUTHORIZATION OF APPROPRIATIONS FOR
16 STUDIES.—In section 1376(c) (42 U.S.C. 4127(c)),
17 by striking “through” and all that follows and in-
18 serting the following: “through the date specified in
19 section 1319, for studies under this title.”.

20 **SEC. 4. ESTABLISHMENT OF PILOT PROGRAM FOR MITIGA-**
21 **TION OF SEVERE REPETITIVE LOSS PROP-**
22 **ERTIES.**

23 (a) IN GENERAL.—The National Flood Insurance
24 Act of 1968 is amended by inserting after section 1361
25 (42 U.S.C. 4102) the following new section:



1 “PILOT PROGRAM FOR MITIGATION OF SEVERE
2 REPETITIVE LOSS PROPERTIES

3 “SEC. 1362. (a) AUTHORITY.—To the extent
4 amounts are made available for use under this section, the
5 Director may, subject to the limitations of this section,
6 provide financial assistance to States and communities for
7 taking actions with respect to severe repetitive loss prop-
8 erties (as such term is defined in subsection (b)) to miti-
9 gate flood damage to such properties and losses to the Na-
10 tional Flood Insurance Fund from such properties.

11 “(b) SEVERE REPETITIVE LOSS PROPERTY.—For
12 purposes of this section, the term ‘severe repetitive loss
13 property’ means a property that—

14 “(1) is covered under a contract for flood insur-
15 ance made available under this title; and

16 “(2) has incurred flood-related damage—

17 “(A) for which 4 or more separate claims
18 payments have been made under flood insur-
19 ance coverage under this title, with the amount
20 of each such claim exceeding the amount of any
21 applicable deductible under such coverage by
22 \$1,000; or

23 “(B) for which at least 2 separate claims
24 payments have been made under such coverage,



1 with the cumulative amount of such claims ex-
2 ceeding the value of the property.

3 “(c) ELIGIBLE ACTIVITIES.—Amounts provided
4 under this section to a State or community may used only
5 for the following activities:

6 “(1) MITIGATION ACTIVITIES.—To carry out
7 mitigation activities that reduce flood damages to se-
8 vere repetitive loss properties, including elevation,
9 relocation, demolition, and floodproofing of struc-
10 tures, and minor physical localized flood control
11 projects.

12 “(2) PURCHASE.—To purchase severe repetitive
13 loss properties, subject to subsection (f).

14 “(d) MATCHING REQUIREMENT.—

15 “(1) IN GENERAL.—Except as provided in para-
16 graph (2), the Director may not provide assistance
17 under this section to a State or community in an
18 amount exceeding 3 times the amount that the State
19 or community certifies, as the Director shall require,
20 that the State or community will contribute from
21 non-Federal funds for carrying out the eligible ac-
22 tivities to be funded with such assistance amounts.

23 “(2) WAIVER.—

24 “(A) AUTHORITY.—Subject to subpara-
25 graph (B), the Director may waive the limita-



1 tion under paragraph (1) for any State, and for
2 the communities located in that State, with re-
3 spect to a year, if, for such year—

4 “(i) 5 percent or more of the total
5 number of severe repetitive loss properties
6 in the United States are located in such
7 State; and

8 “(ii) the State submits a plan to the
9 Director specifying how the State intends
10 to reduce the number of severe repetitive
11 loss properties and the Director deter-
12 mines, after consultation with State and
13 technical experts, that the State has taken
14 actions to reduce the number of such prop-
15 erties.

16 “(B) LIMITATION.—In each waiver under
17 subparagraph (A), the Director may waive the
18 limitation under paragraph (1) only to the ex-
19 tent that the State or community involved is re-
20 quired to contribute, for each severe repetitive
21 loss property for which grant amounts are pro-
22 vided, not less than 10 percent of the cost of
23 the activities for such properties that are to be
24 funded with grant amounts.



1 “(3) NON-FEDERAL FUNDS.—For purposes of
2 this subsection, the term ‘non-Federal funds’ in-
3 cludes State or local agency funds, in-kind contribu-
4 tions, any salary paid to staff to carry out the eligi-
5 ble activities of the recipient, the value of the time
6 and services contributed by volunteers to carry out
7 such activities (at a rate determined by the Direc-
8 tor), and the value of any donated material or build-
9 ing and the value of any lease on a building.

10 “(e) STANDARDS FOR MITIGATION OFFERS.—The
11 program under this section for providing assistance for eli-
12 gible activities for severe repetitive loss properties shall be
13 subject to the following limitations:

14 “(1) PRIORITY.—In determining the properties
15 for which to provide assistance for eligible activities
16 under subsection (c), the Director shall provide as-
17 sistance for properties in the order that will result
18 in the greatest amount of savings to the National
19 Flood Insurance Fund in the shortest period of time.

20 “(2) OFFERS.—The Director shall provide as-
21 sistance in a manner that permits States and com-
22 munities to make offers to owners of severe repet-
23 itive loss properties to take eligible activities under
24 subsection (c) as soon as is practicable.



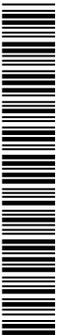
1 “(3) NOTICE.—Upon making an offer to pro-
2 vide assistance with respect to a property for any eli-
3 gible activity under subsection (c), the State or com-
4 munity shall notify each holder of a recorded inter-
5 est on the property of such offer and activity.

6 “(f) PURCHASE OFFERS.—A State or community
7 may take action under subsection (c)(2) to purchase a se-
8 vere repetitive loss property only if the following require-
9 ments are met:

10 “(1) USE OF PROPERTY.—The State or com-
11 munity enters into an agreement with the Director
12 that provides assurances that the property pur-
13 chased will be used in a manner that is consistent
14 with the requirements of clauses (i) and (ii) of sec-
15 tion 404(b)(2)(B) of the Robert T. Stafford Disaster
16 Relief and Emergency Assistance Act (42 U.S.C.
17 5170c(b)(2)(B)) for properties acquired, accepted, or
18 from which a structure will be removed pursuant to
19 a project provided property acquisition and reloca-
20 tion assistance under such section 404(b).

21 “(2) PURCHASE PRICE.—The amount of pur-
22 chase offer is not less than the greatest of—

23 “(A) the amount of the original purchase
24 price of the property, when purchased by the



1 holder of the current policy of flood insurance
2 under this title;

3 “(B) the amount of the remaining prin-
4 cipal obligaton of the mortgages on the prop-
5 erty; and

6 “(C) an amount equal to the fair market
7 value of the property immediately before the
8 most recent flood event affecting the property.

9 “(g) INCREASE TO ACTUARIAL RATES IN CASES OF
10 REFUSAL TO MITIGATE.—

11 “(1) IN GENERAL.—In any case in which the
12 owner of a severe repetitive loss property refuses an
13 offer to take action under paragraph (1) or (2) of
14 subsection (c) with respect to such property, the Di-
15 rector shall—

16 “(A) notify each holder of a recorded inter-
17 est on the property of such refusal; and

18 “(B) increase the chargeable risk premium
19 rate for flood insurance coverage under this
20 title for the property to an amount equal to the
21 applicable estimated risk premium rate for such
22 area (or subdivision thereof) under section
23 1307(a)(1) and apply appropriate loss
24 deductibles.

25 “(2) APPEALS.—



1 “(A) IN GENERAL.—Any owner of a severe
2 repetitive loss property may appeal a deter-
3 mination of the Director to take action under
4 paragraph (1)(B) with respect to such property,
5 based only upon the following grounds:

6 “(i) As a result of such action, the
7 owner of the property will not be able to
8 purchase a replacement primary residence
9 of comparable value and that is function-
10 ally equivalent.

11 “(ii) As a result of such action, the
12 preservation or maintenance of any pre-
13 historic or historic district, site, building,
14 structure, or object included in, or eligible
15 for inclusion in, the National Register of
16 historic places will be interfered with, im-
17 paired, or disrupted.

18 “(iii) The flooding that resulted in the
19 flood insurance claims described in sub-
20 section (b)(2) for the property resulted
21 from significant actions by a third party in
22 violation of Federal, State, or local law, or-
23 dinance, or regulation.

24 “(iv) In purchasing the property, the
25 owner relied upon flood insurance rate



1 maps of the Federal Emergency Manage-
2 ment Agency that were current at the time
3 and did not indicate that the property was
4 located in an area having special flood haz-
5 ards.

6 “(B) PROCEDURE.—An appeal under this
7 paragraph of a determination of the Director
8 shall be made by filing, with the Director, a re-
9 quest for an appeal within 90 days after receiv-
10 ing notice of such determination. Upon receiv-
11 ing the request, the Director shall select, from
12 a list of independent third parties compiled by
13 the Director for such purpose, a party to hear
14 such appeal. Within 90 days after filing of the
15 request for the appeal, such third party shall
16 review the determination of the Director and
17 shall set aside such determination if the third
18 party determines that the grounds under sub-
19 paragraph (A) exist. During the pendency of an
20 appeal under this paragraph, the Director shall
21 stay the applicability of the rates established
22 pursuant to paragraph (1).

23 “(C) EFFECT OF FINAL DETERMINA-
24 TION.—In an appeal under this paragraph—



1 “(i) if a final determination is made
2 that the grounds under subparagraph (A)
3 exist, the third party hearing such appeal
4 shall make a determination of how much to
5 reduce the chargeable risk premium rate
6 for flood insurance coverage for the prop-
7 erty involved in the appeal from the
8 amount required under paragraph (1) and
9 the Director shall promptly reduce the
10 chargeable risk premium rate for such
11 property by such amount; and

12 “(ii) if a final determination is made
13 that the grounds under subparagraph (A)
14 do not exist, the Director shall promptly
15 increase the chargeable risk premium rate
16 for such property to the amount estab-
17 lished pursuant to paragraph (1) and shall
18 collect from the property owner the
19 amount necessary to cover the stay of the
20 applicability of such increased rates during
21 the pendency of the appeal.

22 “(D) COSTS.—If the third party hearing
23 an appeal under this paragraph is compensated
24 for such service, the costs of such compensation
25 shall be borne—



1 “(i) by the owner of the property re-
 2 questing the appeal, if the final determina-
 3 tion in the appeal is that the grounds
 4 under subparagraph (A) do not exist; and

5 “(ii) by the National Flood Insurance
 6 Fund, if such final determination is that
 7 the grounds under subparagraph (A) do
 8 exist.

9 “(E) REPORT.—Not later than 6 months
 10 after the date of the enactment of the Two
 11 Floods and You Are Out of the Taxpayers’
 12 Pocket Act of 2003, the Director shall submit
 13 a report to the House of Representatives and
 14 the Senate describing the rules, procedures, and
 15 administration for appeals under this para-
 16 graph.

17 “(h) DISCRETIONARY ACTIONS IN CASES OF FRAUD-
 18 ULENT CLAIMS.—If the Director determines that a fraud-
 19 ulent claim was made under flood insurance coverage
 20 under this title for a severe repetitive loss property, the
 21 Director may—

22 “(1) cancel the policy and deny the provision to
 23 such policyholder of any new flood insurance cov-
 24 erage under this title for the property; or



1 “(2) refuse to renew the policy with such policy-
 2 holder upon expiration and deny the provision of any
 3 new flood insurance coverage under this title to such
 4 policyholder for the property.

5 “(i) FUNDING.—Pursuant to section 1310(a)(8), the
 6 Director may use amounts from the National Flood Insur-
 7 ance Fund to provide assistance under this section in each
 8 of fiscal years 2004, 2005, 2006, 2007, and 2008, except
 9 that the amount so used in each such fiscal year may not
 10 exceed \$40,000,000 and shall remain available until ex-
 11 pended. Notwithstanding any other provision of this title,
 12 amounts made available pursuant to this subsection shall
 13 not be subject to offsetting collections through premium
 14 rates for flood insurance coverage under this title.

15 “(j) TERMINATION.—The Director may not provide
 16 assistance under this section to any State or community
 17 after September 30, 2008.”.

18 (b) AVAILABILITY OF NATIONAL FLOOD INSURANCE
 19 FUND AMOUNTS.—Section 1310(a) of the National Flood
 20 Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

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

23 (2) by striking paragraph (8) and inserting the
 24 following new paragraph:



1 “(8) for financial assistance under section 1362
2 to States and communities for taking actions under
3 such section with respect to severe repetitive loss
4 properties, but only to the extent provided in section
5 1362(i); and”.

6 **SEC. 5. ENHANCED AUTHORITY IN FLOOD MITIGATION AS-**
7 **SISTANCE PROGRAM.**

8 (a) **MITIGATION ASSISTANCE FOR REPETITIVE**
9 **CLAIMS PROPERTIES.**—Section 1366(e) of the National
10 Flood Insurance Act of 1968 (42 U.S.C. 4104c) is
11 amended—

12 (1) by striking paragraph (4) and inserting the
13 following new paragraph:

14 “(4) **STANDARD FOR ASSISTANCE.**—In pro-
15 viding grants under this subsection for mitigation
16 activities, the Director shall give first priority for
17 funding to repetitive claims properties, or to such
18 subsets of such properties as the Director may es-
19 tablish pursuant to subsection (n)(2), that the Di-
20 rector determines are the most cost-effective for the
21 taxpayers of the United States, are in the best inter-
22 ests of the National Flood Insurance Fund, and for
23 which matching amounts under subsection (f) are
24 available.”; and



1 (2) by adding at the end the following new
2 paragraph:

3 “(6) NOTICE.—Upon making an offer to con-
4 duct any eligible mitigation activity under paragraph
5 (5) with respect to a repetitive claims property or a
6 severe repetitive loss property (as such term is de-
7 fined in section 1362(b)) using amounts provided
8 under this section, the State or community shall no-
9 tify each holder of a recorded interest on the prop-
10 erty of such offer and activity.”.

11 (b) LIMITATIONS ON PROPERTY ACQUISITION.—Sec-
12 tion 1366(e)(5)(C) of the National Flood Insurance Act
13 of 1968 (42 U.S.C. 4104c(e)(5)(C)) is amended by strik-
14 ing “for public use, as the Director determines is con-
15 sistent with sound land management and use in such
16 area” and inserting the following: “except that amounts
17 provided under this section may not be used for acquisi-
18 tion of any property unless—

19 “(i) the State or community enters
20 into an agreement with the Director that
21 provides assurances that the property pur-
22 chased will be used in a manner that is
23 consistent with the requirements of clauses
24 (i) and (ii) of section 404(b)(2)(B) of the
25 Robert T. Stafford Disaster Relief and



1 Emergency Assistance Act (42 U.S.C.
2 5170c(b)(2)(B)) for properties acquired,
3 accepted, or from which a structure will be
4 removed pursuant to a project provided
5 property acquisition and relocation assist-
6 ance under such section 404(b); and

7 “(ii) the amount of purchase offer is
8 not less than the greatest of—

9 “(I) the amount of the original
10 purchase price of the property, when
11 purchased by the holder of the current
12 policy of flood insurance under this
13 title;

14 “(II) the amount of the remain-
15 ing principal obligation of the mort-
16 gages on the property; and

17 “(III) an amount equal to the
18 fair market value of the property im-
19 mediately before the most recent flood
20 event affecting the property.”.

21 (c) WAIVER OF LIMITATIONS ON ASSISTANCE.—Sec-
22 tion 1366(f) of the National Flood Insurance Act of 1968
23 (42 U.S.C. 4104c(f)) is amended by striking paragraph
24 (3) and inserting the following new paragraph:



1 “(3) WAIVER.—The Director may waive the
2 dollar amount limitations under paragraphs (1) and
3 (2) for any State or community—

4 “(A) for any 5-year period when a major
5 disaster or emergency declared by the President
6 (pursuant to the Robert T. Stafford Disaster
7 Relief and Emergency Assistance Act (42
8 U.S.C. 5121 et seq.)) as a result of flood condi-
9 tions is in effect with respect to areas in the
10 State or community; or

11 “(B) whenever the Director determines
12 that repetitive claims properties are located
13 within such State or community and that waiv-
14 er of the cost limitations is cost-effective and in
15 the best interests of the National Flood Insur-
16 ance Fund.”.

17 (d) PENALTIES FOR REFUSAL TO MITIGATE AND
18 FRAUDULENT CLAIMS.—Section 1366 of the National
19 Flood Insurance Act of 1968 (42 U.S.C. 4104c) is
20 amended—

21 (1) by striking subsection (k);

22 (2) by redesignating subsection (j) as sub-
23 section (l); and

24 (3) by inserting after subsection (i) the fol-
25 lowing new subsections:



1 “(j) INCREASE TO ACTUARIAL RATES IN CASES OF
2 REFUSAL TO MITIGATE.—

3 “(1) IN GENERAL.—In any case in which the
4 owner of a repetitive claims property refuses an offer
5 of a State or community to conduct, with respect to
6 such property, mitigation activities under subsection
7 (e) under a mitigation plan approved by the Direc-
8 tor, the Director shall—

9 “(A) notify each holder of a recorded inter-
10 est on the property of such refusal; and

11 “(B) increase the chargeable risk premium
12 rate for flood insurance coverage under this
13 title for the property to an amount equal to the
14 applicable estimated risk premium rate for such
15 area (or subdivision thereof) under section
16 1307(a)(1) and apply appropriate loss
17 deductibles.

18 “(2) APPEALS.—

19 “(A) MITIGATION ACTIONS.—Any owner of
20 a repetitive claims property may appeal a deter-
21 mination of the Director to take action under
22 paragraph (1)(B) with respect to such property,
23 based only upon the following grounds:

24 “(i) As a result of such action, the
25 owner of the property will not be able to



1 purchase a replacement primary residence
2 of comparable value and that is function-
3 ally equivalent.

4 “(ii) As a result of such action, the
5 preservation or maintenance of any pre-
6 historic or historic district, site, building,
7 structure, or object included in, or eligible
8 for inclusion in, the National Register of
9 historic places will be interfered with, im-
10 paired, or disrupted.

11 “(iii) The flooding that resulted in the
12 flood insurance claims payments described
13 in subsection (n)(2) for the property re-
14 sulted from significant actions by a third
15 party in violation of Federal, State, or
16 local law, ordinance, or regulation.

17 “(iv) In purchasing the property, the
18 owner relied upon flood insurance rate
19 maps of the Federal Emergency Manage-
20 ment Agency that were current at the time
21 and did not indicate that the property was
22 located in an area having special flood haz-
23 ards.

24 “(B) PROCEDURE.—An appeal under this
25 paragraph of a determination of the Director



1 shall be made by filing, with the Director, a re-
2 quest for an appeal within 90 days after receiv-
3 ing notice of such determination. Upon receiv-
4 ing the request, the Director shall select, from
5 a list of independent third parties compiled by
6 the Director for such purpose, a party to hear
7 such appeal. Within 90 days after filing of the
8 request for the appeal, such third party shall
9 review the determination of the Director and
10 shall set aside such determination if the third
11 party determines that the grounds under sub-
12 paragraph (A) exist. During the pendency of an
13 appeal under this paragraph, the Director shall
14 stay the applicability of the rates established
15 pursuant to paragraph (1).

16 “(C) EFFECT OF FINAL DETERMINA-
17 TION.—In an appeal under this paragraph—

18 “(i) if a final determination is made
19 that the grounds under subparagraph (A)
20 exist, the third party hearing such appeal
21 shall make a determination of how much to
22 reduce the chargeable risk premium rate
23 for flood insurance coverage for the prop-
24 erty involved in the appeal from the
25 amount required under paragraph (1) and



1 the Director shall promptly reduce the
 2 chargeable risk premium rate for such
 3 property by such amount; and

4 “(ii) if a final determination is made
 5 that the grounds under subparagraph (A)
 6 do not exist, the Director shall promptly
 7 increase the chargeable risk premium rate
 8 for such property to the amount estab-
 9 lished pursuant to paragraph (1) and shall
 10 collect from the property owner the
 11 amount necessary to cover the stay of the
 12 applicability of such increased rates during
 13 the pendency of the appeal.

14 “(D) COSTS.—If the third party hearing
 15 an appeal under this paragraph is compensated
 16 for such service, the costs of such compensation
 17 shall be borne—

18 “(i) by the owner of the property re-
 19 questing the appeal, if the final determina-
 20 tion in the appeal is that the grounds
 21 under subparagraph (A) do not exist; and

22 “(ii) by the National Flood Mitigation
 23 Fund, if such final determination is that
 24 the grounds under subparagraph (A) do
 25 exist.



1 “(E) REPORT.—Not later than 6 months
2 after the date of the enactment of the Two
3 Floods and You Are Out of the Taxpayers’
4 Pocket Act of 2003, the Director shall submit
5 a report to the House of Representatives and
6 the Senate describing the rules, procedures, and
7 administration for appeals under this para-
8 graph, which shall be submitted together with
9 the report required under section
10 1362(g)(2)(E).”.

11 “(k) DISCRETIONARY ACTIONS IN CASES OF FRAUD-
12 ULENT CLAIMS.—If the Director determines that a fraud-
13 ulent claim was made under flood insurance coverage
14 under this title for a repetitive claims property, the Direc-
15 tor may—

16 “(1) cancel the policy and deny the provision to
17 such policyholder of any new flood insurance cov-
18 erage under this title for the property; or

19 “(2) refuse to renew the policy with such policy-
20 holder upon expiration and deny the provision of any
21 new flood insurance coverage under this title to such
22 policyholder for the property.”.

23 (e) COORDINATION WITH STATES AND COMMU-
24 NITIES.—Section 1366 of the National Flood Insurance



1 Act of 1968 (42 U.S.C. 4104c) is amended by adding at
2 the end the following new subsection:

3 “(m) COORDINATION WITH STATES AND COMMU-
4 NITIES.—The Director shall, in consultation and coordina-
5 tion with States and communities:

6 “(1) IDENTIFICATION OF REPETITIVE CLAIMS
7 PROPERTIES.—Identify repetitive claims properties
8 and properties at risk of becoming repetitive claims
9 properties.

10 “(2) MANAGEMENT OF 100-YEAR FLOOD-
11 PLAIN.—Take such actions as are appropriate to en-
12 courage and improve participation of owners of
13 properties that are not located in areas having spe-
14 cial flood hazards but are located within the 100-
15 year floodplain.”.

16 (f) DEFINITION OF REPETITIVE CLAIMS PROP-
17 erty.—Section 1366 of the National Flood Insurance Act
18 of 1968 (42 U.S.C. 4104c) is amended by adding at the
19 end the following new subsection:

20 “(n) DEFINITIONS.—For purposes of this section:

21 “(1) COMMUNITY.—The term ‘community’
22 means—

23 “(A) a political subdivision that—



1 “(i) has zoning and building code ju-
2 risdiction over a particular area having
3 special flood hazards; and

4 “(ii) is participating in the national
5 flood insurance program; or

6 “(B) a political subdivision of a State, or
7 other authority, that is designated to develop
8 and administer a mitigation plan and manage
9 projects by political subdivisions, all of which
10 meet the requirements of subparagraph (A).

11 “(2) REPETITIVE CLAIMS PROPERTY.—The
12 term ‘repetitive claims property’ means, without re-
13 gard to the ownership of the property, a property
14 with respect to which claim payments for losses have
15 been made—

16 “(A) under flood insurance coverage under
17 this title,

18 “(B) on more than one occasion within a
19 10-year period, and

20 “(C) for which the cumulative value of the
21 amount by which such claims exceed the
22 amount of any applicable deductible under such
23 coverage is \$5,000 or more,



1 The Director may, by regulation, further define sub-
2 sets of repetitive claims properties for purposes of
3 subsection (e)(4).”.

4 (g) FUNDING.—Section 1367(b) of the National
5 Flood Insurance Act of 1968 (42 U.S.C. 4104d(b)) is
6 amended—

7 (1) by redesignating paragraph (2) as para-
8 graph (3); and

9 (2) by striking paragraph (1) and inserting the
10 following new paragraphs:

11 “(1) in each fiscal year, amounts from the Na-
12 tional Flood Insurance Fund not exceeding
13 \$20,000,000;

14 “(2) in each of fiscal years 2004, 2005, 2006,
15 2007, and 2008, in addition to amounts under para-
16 graph (1), amounts from the National Flood Insur-
17 ance Fund not exceeding \$40,000,000, to remain
18 available until expended, except that—

19 “(A) such amounts shall be used only
20 under section 1366 for mitigation activities for
21 repetitive claims properties (as such term is de-
22 fined in section 1366(n)); and

23 “(B) notwithstanding any other provision
24 of this title, amounts made available pursuant
25 to this paragraph shall not be subject to offset-



1 on the amount of losses to the National Flood Insurance
2 Fund that claims for a property have caused or are rea-
3 sonably expected to cause.

4 “(c) DEFINITION.—For purposes of this section, the
5 term ‘repetitive claims property’ has the meaning given
6 such term in section 1366(n).”.

7 (b) AVAILABILITY OF NATIONAL FLOOD INSURANCE
8 FUND AMOUNTS.—Section 1310(a) of the National Flood
9 Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended
10 by adding at the end the following new paragraph:

11 “(9) for funding, not to exceed \$10,000,000 in
12 any fiscal year, for mitigation actions under section
13 1323, except that, notwithstanding any other provi-
14 sion of this title, amounts made available pursuant
15 to this paragraph shall not be subject to offsetting
16 collections through premium rates for flood insur-
17 ance coverage under this title.”.

18 **SEC. 7. ACTUARIAL RATE PROPERTIES.**

19 (a) IN GENERAL.—Section 1308 of the National
20 Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended
21 by striking subsection (c) and inserting the following new
22 subsection:

23 “(c) ACTUARIAL RATE PROPERTIES.—Subject only
24 to the limitations provided under paragraphs (1) and (2),
25 the chargeable rate shall not be less than the applicable



1 estimated risk premium rate for such area (or subdivision
2 thereof) under section 1307(a)(1) with respect to the fol-
3 lowing properties:

4 “(1) POST-FIRM PROPERTIES.—Any property
5 the construction or substantial improvement of
6 which the Director determines has been started after
7 December 31, 1974, or started after the effective
8 date of the initial rate map published by the Direc-
9 tor under paragraph (2) of section 1360 for the area
10 in which such property is located, whichever is later,
11 except that the chargeable rate for properties under
12 this paragraph shall be subject to the limitation
13 under subsection (e).

14 “(2) PROPERTIES REFUSING MITIGATION AS-
15 SISTANCE.—Any property for which the Director has
16 taken action under section 1362(g)(1) or 1366(i)(1).

17 “(3) CERTAIN LEASED COASTAL AND RIVER
18 PROPERTIES.—Any property leased from the Federal
19 Government (including residential and nonresidential
20 properties) that the Director determines is located
21 on the river-facing side of any dike, levee, or other
22 riverine flood control structure, or seaward of any
23 seawall or other coastal flood control structure.”.

24 (b) INAPPLICABILITY OF ANNUAL LIMITATIONS ON
25 PREMIUM INCREASES.—Section 1308(e) of the National



1 Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is
2 amended by striking “Notwithstanding” and inserting
3 “Except with respect to properties described under para-
4 graph (2) or (3) of subsection (c) and notwithstanding”.

5 **SEC. 8. REMOVING REPETITIVE INSURANCE CLAIMS PROP-**
6 **ERTIES FROM FEDERAL DISASTER ASSIST-**
7 **ANCE RESPONSIBILITY.**

8 (a) IN GENERAL.—Section 582 of the National Flood
9 Insurance Reform Act of 1994 (42 U.S.C. 5154a) is
10 amended—

11 (1) by redesignating subsections (d) and (e) as
12 subsections (e) and (f), respectively; and

13 (2) by inserting after subsection (c) the fol-
14 lowing new subsection:

15 “(d) UNMITIGATED REPETITIVE INSURANCE CLAIMS
16 PROPERTIES.—Notwithstanding any other provision of
17 law, no Federal disaster relief assistance made available
18 in a flood disaster area may be used to make a payment
19 (including any loan assistance payment) for repair, re-
20 placement, or restoration for damage to a property located
21 in such area if—

22 “(1) such property is a repetitive claims prop-
23 erty (as such term is defined in section 1366(n) of
24 the National Flood Insurance Act of 1968 (42
25 U.S.C. 4104c(o)) or a severe repetitive loss property



1 (as such term is defined in section 1362(b) of such
2 Act (42 U.S.C. 4103(b)); and

3 “(2) in accordance with such requirements as
4 the Director may establish, mitigation assistance
5 under section 1362 or 1366 of the National Flood
6 Insurance Act of 1968 has been offered to the owner
7 of the property, before or after the occurrence of the
8 flood loss events, which was refused by the owner.”.

9 (b) EFFECTIVE DATE.—Notwithstanding subsection
10 (f) of section 582 of the National Flood Insurance Reform
11 Act of 1994 (as so redesignated by paragraph (1)(A) of
12 this subsection), the amendment made by paragraph (1)
13 shall apply to disasters declared after the date of the en-
14 actment of this Act.

15 **SEC. 9. ELECTRONIC DATABASE OF REPETITIVE CLAIMS**
16 **PROPERTIES.**

17 Section 1364 of the National Flood Insurance Act of
18 1968 (42 U.S.C. 4104a) is amended by adding at the end
19 the following new subsection:

20 “(d) ELECTRONIC DATABASE OF REPETITIVE
21 CLAIMS PROPERTIES.—The Director may, if the Director
22 determines such action is feasible, establish and maintain
23 a database identifying by location and address all repet-
24 itive claims properties (as such term is defined in section
25 1366(n)), repetitive loss structures (as such term is de-



1 fined in section 1370), and severe repetitive loss properties
 2 (as such term is defined in section 1362(b)). If estab-
 3 lished, the Director shall make the database available to
 4 the public in a format that may be searched electronically.
 5 Such a database shall not include any information regard-
 6 ing ownership of properties.”.

7 **SEC. 10. REPLACEMENT OF MOBILE HOMES ON ORIGINAL**
 8 **SITES.**

9 Section 1315 of the National Flood Insurance Act of
 10 1968 (42 U.S.C. 4022) is amended by adding at the end
 11 the following new subsection:

12 “(c) REPLACEMENT OF MOBILE HOMES ON ORIGI-
 13 NAL SITES.—

14 “(1) COMMUNITY PARTICIPATION.—The place-
 15 ment of any mobile home on any site shall not affect
 16 the eligibility of any community to participate in the
 17 flood insurance program under this title and the
 18 Flood Disaster Protection Act of 1973 (notwith-
 19 standing that such placement may fail to comply
 20 with any elevation or flood damage mitigation re-
 21 quirements), if—

22 “(A) such mobile home was previously lo-
 23 cated on such site;



1 “(B) such mobile home was relocated from
2 such site because of flooding that threatened or
3 affected such site; and

4 “(C) such replacement is conducted not
5 later than the expiration of the 180-day period
6 that begins upon the subsidence (in the area of
7 such site) of the body of water that flooded to
8 a level considered lower than flood levels.

9 “(2) DEFINITION.—For purposes of this sub-
10 section, the term ‘mobile home’ has the meaning
11 given such term in the law of the State in which the
12 mobile home is located.”.

