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116TH CONGRESS
1ST SESSION

H. R. 3111

[Report No. 116-261]

To make administrative reforms to the National Flood Insurance Program to increase fairness and accuracy and protect the taxpayer from program fraud and abuse, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2019

Ms. VELÁZQUEZ introduced the following bill; which was referred to the Committee on Financial Services

OCTOBER 28, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on June 5, 2019]

A BILL

To make administrative reforms to the National Flood Insurance Program to increase fairness and accuracy and protect the taxpayer from program fraud and abuse, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Na-*
 5 *tional Flood Insurance Program Administrative Reform*
 6 *Act of 2019”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 8 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Pilot program for properties with preexisting conditions.

Sec. 3. Penalties for fraud and false statements in the National Flood Insurance Program.

Sec. 4. Enhanced policyholder appeals process rights.

Sec. 5. Deadline for approval of claims.

Sec. 6. Litigation process oversight and reform.

Sec. 7. Prohibition on hiring disbarred attorneys.

Sec. 8. Technical assistance reports.

Sec. 9. Improved disclosure requirement for standard flood insurance policies.

Sec. 10. Reserve Fund amounts.

Sec. 11. Sufficient staffing for Office of Flood Insurance Advocate.

Sec. 12. Federal Flood Insurance Advisory Committee.

Sec. 13. Interagency guidance on compliance.

Sec. 14. GAO study of claims adjustment practices.

Sec. 15. GAO study of flood insurance coverage treatment of earth movement.

Sec. 16. Definitions.

9 **SEC. 2. PILOT PROGRAM FOR PROPERTIES WITH PRE-**
 10 **EXISTING CONDITIONS.**

11 *Section 1311 of the National Flood Insurance Act of*
 12 *1968 (42 U.S.C. 4018) is amended by adding at the end*
 13 *the following new subsection:*

14 “(c) *PILOT PROGRAM FOR INVESTIGATION OF PRE-*
 15 *EXISTING STRUCTURAL CONDITIONS.*—

16 “(1) *VOLUNTARY PROGRAM.*—*The Administrator*
 17 *shall carry out a pilot program under this subsection*

1 to provide for companies participating in the Write
2 Your Own program (as such term is defined in sec-
3 tion 1370(a) (42 U.S.C. 4121(a))) to investigate pre-
4 existing structural conditions of insured properties
5 and potentially insured properties that could result in
6 the denial of a claim under a policy for flood insur-
7 ance coverage under this title in the event of a flood
8 loss to such property. Participation in the pilot pro-
9 gram shall be voluntary on the part of Write Your
10 Own companies.

11 “(2) INVESTIGATION OF PROPERTIES.—Under
12 the pilot program under this subsection, a Write Your
13 Own company participating in the program shall—

14 “(A) provide in policies for flood insurance
15 coverage under this title covered by the program
16 that, upon the request of the policyholder, the
17 company shall provide for—

18 “(i) an investigation of the property
19 covered by such policy, using common meth-
20 ods, to determine whether preexisting struc-
21 tural conditions are present that could re-
22 sult in the denial of a claim under such pol-
23 icy for flood losses; and

24 “(ii) if such investigation is not deter-
25 minative, an on-site inspection of the prop-

1 *erty to determine whether such preexisting*
2 *structural conditions are present;*

3 *“(B) upon completion of an investigation or*
4 *inspection pursuant to subparagraph (A) that*
5 *determines that such a preexisting structural*
6 *condition is present or absent, submit a report to*
7 *the policyholder and Administrator describing*
8 *the condition; and*

9 *“(C) impose a surcharge on each policy de-*
10 *scribed in subparagraph (A) in such amount*
11 *that the Administrator determines is appropriate*
12 *to cover the costs of investigations and inspec-*
13 *tions performed pursuant to such policies and*
14 *reimburse Write Your Own companies partici-*
15 *pating in the program under this subsection for*
16 *such costs.*

17 *“(3) INTERIM REPORT.—Not later than Decem-*
18 *ber 31, 2023, the Administrator shall submit a report*
19 *to the Committee on Financial Services of the House*
20 *of Representatives and the Committee on Banking,*
21 *Housing, and Urban Affairs of the Senate describing*
22 *the operation of the pilot program to that date.*

23 *“(4) SUNSET.—The Administrator may not pro-*
24 *vide any policy for flood insurance described in para-*
25 *graph (2)(A) after December 31, 2024.*

1 “(5) *FINAL REPORT*.—Not later than March 31,
2 2025, the Administrator shall submit a final report
3 regarding the pilot program under this section to the
4 Committee on Financial Services of the House of Rep-
5 resentatives and the Committee on Banking, Housing,
6 and Urban Affairs of the Senate. The report shall in-
7 clude any findings and recommendations of the Ad-
8 ministrator regarding the pilot program.”.

9 **SEC. 3. PENALTIES FOR FRAUD AND FALSE STATEMENTS IN**
10 **THE NATIONAL FLOOD INSURANCE PRO-**
11 **GRAM.**

12 *Part C of chapter II of the National Flood Insurance*
13 *Act of 1968 (42 U.S.C. 4081 et seq.) is amended by adding*
14 *at the end the following new section:*

15 **“SEC. 1349. PENALTIES FOR FRAUD AND FALSE STATE-**
16 **MENTS IN THE NATIONAL FLOOD INSURANCE**
17 **PROGRAM.**

18 “(a) *PROHIBITED ACTS*.—A person shall not know-
19 ingly make a false, fictitious, or fraudulent statement, pro-
20 duction, or submission in connection with the proving or
21 adjusting of a claim for flood insurance coverage made
22 available under this Act. Such prohibited acts include—

23 “(1) knowingly forging an engineering report,
24 claims adjustment report or technical assistance re-
25 port used to support a claim determination;

1 “(2) knowingly making any materially false, fic-
2 titious, or fraudulent statement or representation in
3 an engineering report, claims adjustment report, or
4 technical assistance report to support a claim deter-
5 mination that results in a wrongful denial or sub-
6 stantial payment error of flood insurance coverage;
7 and

8 “(3) knowingly submitting a materially false,
9 fictitious, or fraudulent claim that results in wrongful
10 payment of flood insurance coverage.

11 “(b) *DEFINITION.*—For purposes of this section, the
12 term ‘knowingly’ means having actual awareness of the pro-
13 hibitions under this part and acting deliberately in viola-
14 tion of such prohibitions.

15 “(c) *ADMINISTRATIVE REMEDY.*—Prior to any legal
16 action being taken related to this section, all administrative
17 remedies shall be exhausted.

18 “(d) *RULE OF CONSTRUCTION.*—This section shall not
19 be construed—

20 “(1) to prevent the Federal Government from
21 bringing action against a company or individual
22 under applicable statutes, including the False Claims
23 Act; and

1 “(2) as creating any action, private right of ac-
2 tion, or remedy not otherwise provided by this title or
3 under Federal law.

4 “(e) *STATE ACTION*.—Any person found to have vio-
5 lated subsection (a) shall be referred to the appropriate and
6 relevant State licensing agency by the Attorney General.”.

7 **SEC. 4. ENHANCED POLICYHOLDER APPEALS PROCESS**
8 **RIGHTS.**

9 (a) *ESTABLISHMENT*.—Part C of chapter II of the Na-
10 tional Flood Insurance Act of 1968 (42 U.S.C. 4081 et seq.),
11 as amended by the preceding provisions of this Act, is fur-
12 ther amended by adding at the end the following new sec-
13 tion:

14 **“SEC. 1350. APPROVAL OF DECISIONS RELATING TO FLOOD**
15 **INSURANCE COVERAGE.**

16 “(a) *IN GENERAL*.—The Administrator shall establish
17 an appeals process to enable holders of a flood insurance
18 policy provided under this title to appeal decisions, with
19 respect to the disallowance, in whole or in part, of any
20 claims for losses covered by flood insurance. Such appeals
21 shall be limited to the claim or portion of the claim dis-
22 allowed.

23 “(b) *APPEAL DECISION*.—Upon a decision in an ap-
24 peal under subsection (a), the Administrator shall provide
25 the policyholder with a written appeal decision. The appeal

1 *decision shall explain the Administrator’s determination to*
2 *uphold, modify, or overturn the decision. The Administrator*
3 *may direct the Write Your Own company to take action*
4 *necessary to resolve the appeal, to include re-inspection, re-*
5 *adjustment, or payment, as appropriate.*

6 “(c) *DEADLINE FOR APPEALS DECISION.*—*The Ad-*
7 *ministrator shall issue an appeals decision pursuant to sub-*
8 *section (b) not later than the expiration of the 120-day pe-*
9 *riod beginning upon the day on which the Administrator*
10 *acknowledges receipt of a request by the policyholder to pur-*
11 *sue an appeal of the initial determination regarding ap-*
12 *proval, disapproval, or amount of payment by the Adminis-*
13 *trator. In cases where extraordinary circumstances, as es-*
14 *tablished by regulation, are demonstrated, the 120-day pe-*
15 *riod may be extended by additional successive periods of*
16 *30 days.*

17 “(d) *ADMINISTRATIVE REMEDY.*—*A policyholder shall*
18 *exhaust all administrative remedies, including submission*
19 *of disputed claims to appeal under subsection (a), prior to*
20 *commencing legal action on a disputed claim.*

21 “(e) *RULES OF CONSTRUCTION.*—*This section shall not*
22 *be construed as—*

23 “(1) *making the Federal Emergency Manage-*
24 *ment Agency or the Administrator a party to the*
25 *flood insurance contract; or*

1 “(2) *creating any action or remedy not otherwise*
2 *provided by this title.*”

3 “(f) *POLICYHOLDER LITIGATION.—This section shall*
4 *not be construed to prevent a policyholder from bringing*
5 *legal action against the Federal Emergency Management*
6 *Agency or a Write Your Own company following the ex-*
7 *haustion of all administrative remedies and pursuant to*
8 *applicable statute.*”.

9 (b) *MAINTENANCE OF LITIGATION RIGHTS.—Section*
10 *1341 of the National Flood Insurance Act of 1968 (42*
11 *U.S.C. 4072) is amended by adding after the period at the*
12 *end the following: “For purposes of this section, the time*
13 *from which the Administrator has acknowledged receipt of*
14 *a request by the policyholder to pursue an appeal of the*
15 *initial determination regarding approval, disapproval, or*
16 *amount of payment by the Administrator until the Admin-*
17 *istrator mails a final determination of such appeal shall*
18 *not be considered towards the one year statute of limitation*
19 *under this Act. However, this section shall not be construed*
20 *as creating any action or remedy not otherwise provided*
21 *by this title.*”.

22 (c) *REPEAL.—Section 205 of the Bunning-Bereuter-*
23 *Blumenauer Flood Insurance Reform Act of 2004 (42*
24 *U.S.C. 4011 note) is hereby repealed.*

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

2 (a) *IN GENERAL.*—Section 1312 of the National Flood
3 Insurance Act of 1968 (42 U.S.C. 4019) is amended—

4 (1) in subsection (a), by striking “The Adminis-
5 trator” and inserting “Subject to other provisions of
6 this section, the Administrator”; and

7 (2) by adding at the end the following new sub-
8 section:

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

10 “(1) *IN GENERAL.*—The Administrator shall pro-
11 vide that, in the case of any claim for damage to or
12 loss of property under flood insurance coverage made
13 available under this title, an initial determination re-
14 garding approval of a claim for payment or dis-
15 approval of the claim be made, and notification of
16 such determination be provided to the insured making
17 such claim, not later than the expiration of the 120-
18 day period (as such period may be extended pursuant
19 to paragraph (2)) beginning upon the day on which
20 the policyholder submits a signed proof of loss detail-
21 ing the damage and amount of the loss. Payment of
22 approved claims shall be made as soon as possible
23 after such approval.

24 “(2) *EXTENSION OF DEADLINE.*—The Adminis-
25 trator shall—

1 “(A) provide that the period referred to in
2 paragraph (1) may be extended by additional
3 successive periods of 30 days in cases where ex-
4 traordinary circumstances are demonstrated;
5 and

6 “(B) establish, by regulation, criteria for
7 demonstrating such extraordinary cir-
8 cumstances.”.

9 (b) *APPLICABILITY.*—The amendments made by sub-
10 section (a) shall apply to any claim under flood insurance
11 coverage made available under the National Flood Insur-
12 ance Act of 1968 (42 U.S.C. 4001 et seq.) pending on the
13 date of the enactment of this Act and any claims made after
14 such date of enactment.

15 **SEC. 6. LITIGATION PROCESS OVERSIGHT AND REFORM.**

16 (a) *IN GENERAL.*—Part C of chapter II of the National
17 Flood Insurance Act of 1968 (42 U.S.C. 4081 et seq.), as
18 amended by the preceding provisions of this Act, is further
19 amended by adding at the end the following new section:

20 **“SEC. 1351. OVERSIGHT OF LITIGATION.**

21 “(a) *OVERSIGHT.*—The Administrator shall monitor
22 and oversee litigation conducted by Write Your Own com-
23 panies arising under contracts for flood insurance sold pur-
24 suant to this title, to ensure that—

1 “(1) *litigation expenses are reasonable, appro-*
2 *priate, and cost-effective; and*

3 “(2) *Write Your Own companies comply with*
4 *guidance and procedures established by the Adminis-*
5 *trator regarding the conduct of litigation.*

6 “(b) *DENIAL OF REIMBURSEMENT FOR EXPENSES.—*
7 *The Administrator may deny reimbursement for litigation*
8 *expenses that are determined to be unreasonable, excessive,*
9 *contrary to guidance issued by the Administrator, or out-*
10 *side the scope of any arrangement entered into with a Write*
11 *Your Own company.*

12 “(c) *JOINT DEFENSE.—*

13 “(1) *AUTHORITY.—The Administrator and the*
14 *Write Your Own companies may enter into, and op-*
15 *erate under, a joint defense agreement for any claim*
16 *or lawsuit, or multiple claims or lawsuits, arising*
17 *under a contract of flood insurance.*

18 “(2) *FREE FLOW OF INFORMATION.—Under such*
19 *joint defense agreement, there may be the free flow of*
20 *information between the Write Your Own companies,*
21 *the Administrator, the United States Department of*
22 *Justice, and legal counsel for the Write Your Own*
23 *companies for the purpose of litigation coordination*
24 *and to allow the Administrator to perform oversight*
25 *responsibility of such litigation.*

1 “(3) *ARRANGEMENT.*—*Such joint defense agree-*
2 *ment may be included in the Arrangement between*
3 *the Administrator and the Write Your Own compa-*
4 *nies.*

5 “(4) *REGULATIONS.*—*The Administrator may*
6 *issue rules or regulations or provide such formal guid-*
7 *ance as the Administrator considers necessary and*
8 *appropriate in order to further such joint defense*
9 *agreement with the Write Your Own companies.”.*

10 “(b) *IMPLEMENTATION.*—*The Administrator of the Fed-*
11 *eral Emergency Management Agency shall initiate compli-*
12 *ance with section 1351(c) of the National Flood Insurance*
13 *Act of 1968, as added by the amendment made by subsection*
14 *(a) of this section, not later than the expiration of the 12-*
15 *month period beginning on the date of the enactment of this*
16 *Act.*

17 **SEC. 7. PROHIBITION ON HIRING DISBARRED ATTORNEYS.**

18 *Part C of chapter II of the National Flood Insurance*
19 *Act of 1968 (42 U.S.C. 4081 et seq.), as amended by the*
20 *preceding provisions of this Act, is further amended by add-*
21 *ing at the end the following new section:*

22 **“SEC. 1352. PROHIBITION ON HIRING DISBARRED ATTOR-**
23 **NEYS.**

24 *“The Administrator may not at any time newly em-*
25 *ploy in connection with the flood insurance program under*

1 *this title any attorney who has been suspended or disbarred*
 2 *by any court, bar, or Federal or State agency to which the*
 3 *individual was previously admitted to practice.”.*

4 **SEC. 8. TECHNICAL ASSISTANCE REPORTS.**

5 *(a) USE.—Section 1312 of the National Flood Insur-*
 6 *ance Act of 1968 (42 U.S.C. 4019), as amended by the pre-*
 7 *ceding provisions of this Act, is further amended by adding*
 8 *at the end the following new subsection:*

9 *“(e) USE OF TECHNICAL ASSISTANCE REPORTS.—*
 10 *When adjusting claims for any damage to or loss of prop-*
 11 *erty which is covered by flood insurance made available*
 12 *under this title, the Administrator may rely upon technical*
 13 *assistance reports, as such term is defined in section 1312A,*
 14 *only if such reports are final and are prepared in compli-*
 15 *ance with applicable State and Federal laws regarding pro-*
 16 *fessional licensure and conduct.”.*

17 *(b) DISCLOSURE.—The National Flood Insurance Act*
 18 *of 1968 is amended by inserting after section 1312 (42*
 19 *U.S.C. 4019) the following new section:*

20 **“SEC. 1312A. DISCLOSURE OF TECHNICAL ASSISTANCE RE-**
 21 **PORTS.**

22 *“(a) IN GENERAL.—Notwithstanding section 552a of*
 23 *title 5, United States Code, upon request by a policyholder,*
 24 *the Administrator shall provide a true, complete, and*
 25 *unredacted copy of any technical assistance report that the*

1 *Administrator relied upon in adjusting and paying for any*
2 *damage to or loss of property insured by the policyholder*
3 *and covered by flood insurance made available under this*
4 *title. Such disclosures shall be in addition to any other right*
5 *of disclosure otherwise made available pursuant such sec-*
6 *tion 552a or any other provision of law.*

7 “(b) *DIRECT DISCLOSURE BY WRITE YOUR OWN COM-*
8 *PANIES AND DIRECT SERVICING AGENTS.—A Write Your*
9 *Own company or direct servicing agent in possession of a*
10 *technical assistance report subject to disclosure under sub-*
11 *section (a) may disclose such technical assistance report*
12 *without further review or approval by the Administrator.*

13 “(c) *DEFINITIONS.—For purposes of this section, the*
14 *following definitions shall apply:*

15 “(1) *POLICYHOLDER.—The term ‘policyholder’*
16 *means a person or persons shown as an insured on*
17 *the declarations page of a policy for flood insurance*
18 *coverage sold pursuant to this title.*

19 “(2) *TECHNICAL ASSISTANCE REPORT.—The*
20 *term ‘technical assistance report’ means a report cre-*
21 *ated for the purpose of furnishing technical assistance*
22 *to an insurance claims adjuster assigned by the Na-*
23 *tional Flood Insurance Program, including by engi-*
24 *neers, surveyors, salvors, architects, and certified pub-*
25 *lic accounts.”.*

1 **SEC. 9. IMPROVED DISCLOSURE REQUIREMENT FOR**
2 **STANDARD FLOOD INSURANCE POLICIES.**

3 (a) *IN GENERAL.*—Section 100234 of the Biggert-
4 *Waters Flood Insurance Reform Act of 2012 (42 U.S.C.*
5 *4013a) is amended by adding at the end the following new*
6 *subsections:*

7 “(c) *DISCLOSURE OF COVERAGE.*—

8 “(1) *DISCLOSURE SHEET.*—Each policy under
9 the National Flood Insurance Program shall include
10 a standard disclosure sheet that is produced by the
11 Administrator that sets forth, in plain language—

12 “(A) the definition of the term ‘flood’ for
13 purposes of coverage under the policy;

14 “(B) a description of what type of flood
15 forces are necessary so that losses from an event
16 are covered under the policy, including overflow
17 of inland or tidal waves, unusual and rapid ac-
18 cumulation or runoff of a surface any source,
19 and mudflow;

20 “(C) a statement acknowledging that a
21 standard flood insurance policy does not cover
22 basement improvements, such as finished walls,
23 floors, and ceilings, or personal property kept in
24 a basement;

25 “(D) a statement acknowledging a standard
26 flood insurance policy does not include coverage

1 *for personal property, but such coverage may be*
2 *purchased, for some personal property contained*
3 *in a basement, as well as personal belongings*
4 *contained elsewhere in the dwelling;*

5 *“(E) a statement of the other types and*
6 *characteristics of losses that are not covered*
7 *under the policy;*

8 *“(F) a statement that the disclosure sheet*
9 *provides general information about the policy-*
10 *holder’s standard flood insurance policy;*

11 *“(G) a statement that the standard flood in-*
12 *surance policy, together with the endorsements*
13 *and declarations page, make up the official con-*
14 *tract and are controlling in the event that there*
15 *is any difference between the information on the*
16 *disclosure sheet and the information in the pol-*
17 *icy;*

18 *“(H) a statement that, if the policyholder*
19 *has any questions regarding information in the*
20 *disclosure sheet or policy, the policyholder should*
21 *contact the entity selling the policy on behalf of*
22 *the Program, together with contact information*
23 *sufficient to allow the policyholder to contact*
24 *such entity; and*

1 “(I) any other information that the Admin-
2 istrator determines will be helpful to policyholder
3 in understanding flood insurance coverage.

4 “(2) *ACKNOWLEDGMENT SHEET*.—Each policy
5 application under the National Flood Insurance Pro-
6 gram shall include an acknowledgment sheet on which
7 the policyholder shall affirmatively—

8 “(A) acknowledge that the policyholder re-
9 ceived the disclosure sheet required under para-
10 graph (1);

11 “(B) accept or decline coverage for personal
12 property;

13 “(C) accept or decline other optional cov-
14 erage that may be available;

15 “(D) acknowledge the policyholder’s under-
16 standing that the standard flood insurance pol-
17 icy, together with the endorsements and declara-
18 tions page, make up the official contract and are
19 controlling in the event that there is any dif-
20 ference between the information on the acknowl-
21 edgment sheet and the information in the policy;
22 and

23 “(E) acknowledge that the policyholder has
24 been provided and has reviewed a summary,
25 which may be the policy declarations page, of the

1 *total cost, amount and extent of insurance cov-*
2 *erage provided under the policy.*

3 “(d) *RULE OF CONSTRUCTION.*—*This section shall not*
4 *be construed to void or alter the coverage terms of the under-*
5 *lying standard flood insurance policy and the cor-*
6 *responding endorsements. In the event that the customer*
7 *does not affirmatively acknowledge the requirements under*
8 *subsection (c)(2), a Write Your Own company may still*
9 *issue the policy on behalf of the National Flood Insurance*
10 *Program under such terms.”.*

11 (b) *REPEALS.*—*Sections 202 and 203 of the Bunning-*
12 *Bereuter-Blumenauer Flood Insurance Reform Act of 2004*
13 *(42 U.S.C. 4011 note) are hereby repealed.*

14 **SEC. 10. RESERVE FUND AMOUNTS.**

15 *Section 1310 of the National Flood Insurance Act of*
16 *1968 (42 U.S.C. 4017) is amended by adding at the end*
17 *the following new subsection:*

18 “(g) *CREDITING OF RESERVE FUND AMOUNTS.*—
19 *Funds collected pursuant to section 1310A may be credited*
20 *to the Fund under this section to be available for the pur-*
21 *pose described in subsection (d)(1).”.*

1 **SEC. 11. SUFFICIENT STAFFING FOR OFFICE OF FLOOD IN-**
2 **SURANCE ADVOCATE.**

3 (a) *IN GENERAL.*—Section 24 of the Homeowner Flood
4 Insurance Affordability Act of 2014 (42 U.S.C. 4033) is
5 amended by adding at the end the following new subsection:

6 “(c) *STAFF.*—The Administrator shall ensure that the
7 Flood Insurance Advocate has sufficient staff to carry out
8 all of the duties and responsibilities of the Advocate under
9 this section.”.

10 (b) *TIMING.*—The Administrator of the Federal Emer-
11 gency Management Agency shall take such actions as may
12 be necessary to provide for full compliance with section
13 24(c) of the Homeowner Flood Insurance Affordability Act
14 of 2014, as added by the amendment made by subsection
15 (a) of this section, not later than the expiration of the 180-
16 day period beginning on the date of the enactment of this
17 Act.

18 **SEC. 12. FEDERAL FLOOD INSURANCE ADVISORY COM-**
19 **MITTEE.**

20 Section 1318 of the National Flood Insurance Act of
21 1968 (42 U.S.C. 4025) is amended to read as follows:

22 **“SEC. 1318. FEDERAL FLOOD INSURANCE ADVISORY COM-**
23 **MITTEE.**

24 “(a) *ESTABLISHMENT.*—There is established an advi-
25 sory committee to be known as the Federal Flood Insurance

1 *Advisory Committee (in this section referred to as the ‘Com-*
2 *mittee’).*

3 “(b) *MEMBERSHIP.*—

4 “(1) *MEMBERS.*—*The Committee shall consist*
5 *of—*

6 “(A) *the Administrator of the Federal*
7 *Emergency Management Agency (in this section*
8 *referred to as the ‘Administrator’), or the des-*
9 *ignee thereof; and*

10 “(B) *additional members appointed by the*
11 *Administrator or the designee of the Adminis-*
12 *trator, who shall include—*

13 “(i) *three representatives of Write Your*
14 *Own companies;*

15 “(ii) *one individual who served in the*
16 *past, or is currently serving, as an insur-*
17 *ance regulator of a State, the District of Co-*
18 *lumbia, the Commonwealth of Puerto Rico,*
19 *Guam, the Commonwealth of the Northern*
20 *Mariana Islands, the Virgin Islands, Amer-*
21 *ican Samoa, or any federally-recognized In-*
22 *Indian tribe;*

23 “(iii) *one representative of the finan-*
24 *cial or insurance sectors who is involved in*
25 *risk transfers, including reinsurance, resil-*

1 *ience bonds, and other insurance-linked se-*
2 *curities;*

3 *“(iv) one actuary with demonstrated*
4 *high-level knowledge of catastrophic risk in-*
5 *surance;*

6 *“(v) two insurance agents or brokers*
7 *with demonstrated experience with the sale*
8 *of flood insurance under the National Flood*
9 *Insurance Program, one of whom shall have*
10 *demonstrated expertise in the challenges in*
11 *insuring low-income communities;*

12 *“(vi) one insurance claims specialist;*

13 *“(vii) one representative of a recog-*
14 *nized consumer advocacy organization; and*

15 *“(viii) one representative from an aca-*
16 *demie institution who has demonstrated ex-*
17 *pertise in insurance.*

18 *“(2) QUALIFICATIONS.—In appointing members*
19 *under paragraph (1)(C), the Administrator shall, to*
20 *the maximum extent practicable, ensure the member-*
21 *ship of the Committee has a balance of members re-*
22 *flecting geographic diversity, including representation*
23 *from areas inland or with coastline identified by the*
24 *Administrator as at high risk for flooding or as areas*
25 *having special flood hazards.*

1 “(c) *DUTIES.*—*The Administrator shall submit, and*
2 *the Committee shall review and make recommendations on,*
3 *matters related to the insurance aspects of the National*
4 *Flood Insurance Program, including ratemaking, tech-*
5 *nology to administer insurance, risk assessment, actuarial*
6 *practices, claims practices, sales and insurance delivery,*
7 *compensation and allowances, the public-private partner-*
8 *ship under the Write Your Own arrangement, general best*
9 *insurance practices, and any significant changes proposed*
10 *to be made regarding the operation of the National Flood*
11 *Insurance Program.*

12 “(d) *CHAIRPERSON.*—*The members of the Committee*
13 *shall elect one member to serve as the chairperson of the*
14 *Committee (in this section referred to as the ‘Chairperson’).*

15 “(e) *COMPENSATION.*—*Members of the Committee shall*
16 *receive no additional compensation by reason of their serv-*
17 *ice on the Committee. Members may be reimbursed by the*
18 *Federal Government for travel expenses, including per diem*
19 *in lieu of subsistence, at rates consistent with rates author-*
20 *ized for employees of Federal agencies under subchapter 1*
21 *of chapter 57 of title 5, United States Code, while away*
22 *from home or regular places of business in performance of*
23 *service for the Committee.*

24 “(f) *MEETINGS AND ACTIONS.*—

1 “(1) *IN GENERAL.*—*The Committee shall meet*
2 *not less frequently than twice each year at the request*
3 *of the Chairperson or a majority of its members, and*
4 *may take action by a vote of the majority of the mem-*
5 *bers in accordance with the Committee’s charter.*

6 “(2) *INITIAL MEETING.*—*The Administrator, or*
7 *a person designated by the Administrator, shall re-*
8 *quest and coordinate the initial meeting of the Com-*
9 *mittee.*

10 “(g) *TRANSPARENCY; FACA.*—*To the greatest extent*
11 *possible, the Committee shall operate in a transparent man-*
12 *ner that adheres to the requirements of the Federal Advisory*
13 *Committee Act, with the exception that the Committee shall*
14 *be permitted to freely communicate both during and be-*
15 *tween meetings under paragraph (f) in a confidential man-*
16 *ner to discuss non-public information regarding the oper-*
17 *ations of the National Flood Insurance Program and other*
18 *sensitive and non-public issues. If such communication oc-*
19 *curs, the Committee shall, to the greatest extent possible,*
20 *report a summary of such discussions in an appropriate*
21 *public manner.*

22 “(h) *STAFF OF FEMA.*—*Upon the request of the*
23 *Chairperson, the Administrator may detail, on a non-*
24 *reimbursable basis, personnel of the Federal Emergency*

1 *Management Agency to assist the Committee in carrying*
2 *out its duties.*

3 “(i) *POWERS.*—*In carrying out this section, the Com-*
4 *mittee may hold hearings, receive evidence and assistance,*
5 *provide information, and conduct research, as it considers*
6 *appropriate.*

7 “(j) *REPORTS TO CONGRESS.*—*The Administrator, on*
8 *an annual basis, shall report to the Committee on Financial*
9 *Services of the House of Representatives, the Committee on*
10 *Banking, Housing, and Urban Affairs of the Senate, and*
11 *the Office of Management and Budget on—*

12 “(1) *the recommendations made by the Com-*
13 *mittee;*

14 “(2) *actions taken by the Federal Emergency*
15 *Management Agency to address such recommenda-*
16 *tions to improve the insurance aspects of the national*
17 *flood insurance program; and*

18 “(3) *any recommendations made by the Com-*
19 *mittee that have been deferred or not acted upon, to-*
20 *gether with an explanatory statement.*

21 “(k) *RULE OF CONSTRUCTION.*—*This section shall not*
22 *be construed to eliminate or alter any requirement on the*
23 *Administrator associated with the notification or consulta-*
24 *tion of specified individuals or groups of individuals as re-*
25 *quired elsewhere by statute.”.*

1 **SEC. 13. INTERAGENCY GUIDANCE ON COMPLIANCE.**

2 *The Federal entities for lending regulation (as such*
3 *term is defined in section 3(a) of the Flood Disaster Protec-*
4 *tion Act of 1973 (42 U.S.C. 4003(a)), in consultation with*
5 *the Administrator of the Federal Emergency Management*
6 *Agency, shall update and reissue the document entitled*
7 *“Interagency Questions and Answers Regarding Flood In-*
8 *surance” not later than the expiration of the 12-month pe-*
9 *riod beginning on the date of the enactment of this Act and*
10 *not less frequently than biennially thereafter.*

11 **SEC. 14. GAO STUDY OF CLAIMS ADJUSTMENT PRACTICES.**

12 *The Comptroller General of the United States shall*
13 *conduct a study of the policies and practices for adjustment*
14 *of claims for losses under flood insurance coverage made*
15 *available under the National Flood Insurance Act, which*
16 *shall include—*

17 *(1) a comparison of such policies and practices*
18 *with the policies and practices for adjustment of*
19 *claims for losses under other insurance coverage;*

20 *(2) an assessment of the quality of the adjust-*
21 *ments conducted and the effects of such policies and*
22 *practices on such quality;*

23 *(3) identification of any incentives under such*
24 *policies and practices that affect the speed with which*
25 *such adjustments are conducted; and*

1 (4) *identification of the affects of such policies*
2 *and practices on insureds submitting such claims for*
3 *losses.*

4 *Not later than the expiration of the 18-month period begin-*
5 *ning on the date of the enactment of this Act, the Comp-*
6 *troller General shall submit a report to the Committee on*
7 *Financial Services of the House of Representatives and the*
8 *Committee on Banking, Housing, and Urban Affairs of the*
9 *Senate regarding the findings and conclusions of the study*
10 *conducted pursuant to this section.*

11 **SEC. 15. GAO STUDY OF FLOOD INSURANCE COVERAGE**

12 **TREATMENT OF EARTH MOVEMENT.**

13 *The Comptroller General of the United States shall*
14 *conduct a study of the treatment, under flood insurance cov-*
15 *erage made available under the National Flood Insurance*
16 *Act, of earth movement and subsidence, including earth*
17 *movement and subsidence caused by flooding, which shall*
18 *include—*

19 (1) *identification and analysis of the effects of*
20 *such treatment on the National Flood Insurance Pro-*
21 *gram and insureds under the program;*

22 (2) *an assessment of the availability and afford-*
23 *ability of coverage in the private insurance market*
24 *for earth movement and subsidence caused by flood-*
25 *ing;*

1 (3) *an assessment of the effects on the National*
2 *Flood Insurance Program of covering earth movement*
3 *and subsidence caused by flooding; and*

4 (4) *a projection of the increased premiums that*
5 *would be required to make coverage for earth move-*
6 *ment losses actuarially sound and not fiscally detri-*
7 *mental to the continuation of the National Flood In-*
8 *surance Program.*

9 *Not later than the expiration of the 18-month period begin-*
10 *ning on the date of the enactment of this Act, the Comp-*
11 *troller General shall submit a report to the Committee on*
12 *Financial Services of the House of Representatives and the*
13 *Committee on Banking, Housing, and Urban Affairs of the*
14 *Senate regarding the findings and conclusions of the study*
15 *conducted pursuant to this section.*

16 **SEC. 16. DEFINITIONS.**

17 (a) *NATIONAL FLOOD INSURANCE ACT OF 1968.*—Sub-
18 *section (a) of section 1370 of the National Flood Insurance*
19 *Act of 1968 (42 U.S.C. 4121(a)) is amended—*

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

22 (2) *in paragraph (15), by striking the period at*
23 *the end and inserting a semicolon; and*

24 (3) *by adding at the end the following new para-*
25 *graphs:*

1 “(16) the term ‘Write Your Own Program’
2 means the program under which the Federal Emer-
3 gency Management Agency enters into a standard ar-
4 rangement with private property insurance compa-
5 nies to sell contracts for flood insurance coverage
6 under this title under their own business lines of in-
7 surance, and to adjust and pay claims arising under
8 such contracts; and

9 “(17) the term ‘Write Your Own company’
10 means a private property insurance company that
11 participates in the Write Your Own Program.”.

12 (b) *BIGGERT-WATERS FLOOD INSURANCE REFORM*
13 *ACT OF 2012.*—Subsection (a) of section 100202 of the
14 *Biggert-Waters Flood Insurance Reform Act of 2012 (42*
15 *U.S.C. 4004(a)) is amended by striking paragraph (5) and*
16 *inserting the following new paragraph:*

17 “(5) *WRITE YOUR OWN.*—The terms ‘Write Your
18 Own Program’ and ‘Write Your Own company’ have
19 the meanings given such terms in section 1370(a) of
20 the *National Flood Insurance Act of 1968 (42 U.S.C.*
21 *4121(a)).*”.

Union Calendar No. 209

116TH CONGRESS
1ST Session

H. R. 3111

[Report No. 116-261]

A BILL

To make administrative reforms to the National Flood Insurance Program to increase fairness and accuracy and protect the taxpayer from program fraud and abuse, and for other purposes.

OCTOBER 28, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed