Public Law 93-234

AN ACT

December 31, 1973
[H. R. 8449]

To expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Flood Disaster Protection Act of 1973".

Flood Disaster Protection Act of 1973.

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) annual losses throughout the Nation from floods and mudslides are increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood and mudslide hazards;

(2) the availability of Federal loans, grants, guaranties, insurance, and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of public and of private industrial, commercial, and residential facilities;

(3) property acquired or constructed with grants or other Federal assistance may be exposed to risk of loss through floods, thus frustrating the purpose for which such assistance was extended;

(4) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides;

(5) the Nation cannot afford the tragic losses of life caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits; and

(6) it is in the public interest for persons already living in flood-prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters.

(b) The purpose of this Act, therefore, is to—

(1) substantially increase the limits of coverage authorized under the national flood insurance program;

(2) provide for the expeditious identification of, and the dissemination of information concerning, flood-prone areas;

(3) require States or local communities, as a condition of future Federal financial assistance, to participate in the flood insurance program and to adopt adequate flood plain ordinances with effective enforcement provisions consistent with Federal standards to reduce or avoid future flood losses; and

(4) require the purchase of flood insurance by property owners who are being assisted by Federal programs or by federally supervised, regulated, or insured agencies or institutions in the acquisition or improvement of land or facilities located or to be located in identified areas having special flood hazards.

DEFINITIONS

SEC. 3. (a) As used in this Act, unless the context otherwise requires, the term—

(1) "community" means a State or a political subdivision thereof which has zoning and building code jurisdiction over a particular area having special flood hazards;

(2) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, and includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(3) "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance, other than general or special revenue sharing or formula grants made to States;

(4) "financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance for emergency work essential for the protection and preservation of life and property performed pursuant to the Disaster Relief Act of 1970 or any subsequent Act of Congress which supersedes or modifies the Disaster Relief Act of 1970;

84 Stat. 1744. 42 USC 4401 note.

(5) "Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration; and

(6) "Secretary" means the Secretary of Housing and Urban Development.

(b) The Secretary is authorized to define or redefine, by rules and regulations, any scientific or technical term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act.

TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

INCREASED LIMITS OF COVERAGE

SEC. 101. (a) Section 1306(b)(1)(A) of the National Flood Insurance Act of 1968 is amended to read as follows:

82 Stat. 575. 42 USC 4013.

"(A) in the case of residential properties—

"(i) $35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit,

"(ii) $10,000 aggregate liability per dwelling unit for any contents related to such unit, and

"(iii) in the States of Alaska and Hawaii, and in the Virgin Islands and Guam, the limits provided in clause (i) of this sentence shall be: $50,000 aggregate liability for any single-family dwelling, and $150,000 for any residential structure containing more than one dwelling unit;".

82 Stat. 575.
42 USC 4013.

(b) Section 1306(b)(1)(B) of such Act is amended by striking out "$30,000" and "$5,000" wherever they appear and inserting in lieu thereof "$100,000".

85 Stat. 775.

(c) Section 1306(b)(1)(C) of such Act is amended to read as follows:

"(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 1305—

83 Stat. 397.
42 USC 4012.

"(i) $100,000 aggregate liability for any single structure, and

"(ii) $100,000 aggregate liability per unit for any contents related to such unit; and."

REQUIREMENT TO PURCHASE FLOOD INSURANCE

SEC. 102. (a) After the expiration of sixty days following the date of enactment of this Act, no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes for use in any area that has been identified by the Secretary as an area having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property to which such financial assistance relates is, during the anticipated economic or useful life of the project, covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

82 Stat. 572.
42 USC 4001 note.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions not to make, increase, extend, or renew after the expiration of sixty days following the date of enactment of this Act any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.

State-owned property, exemption.

(c) Notwithstanding the other provisions of this section, flood insurance shall not be required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the Secretary. The Secretary shall publish and periodically revise the list of States to which this subsection applies.

List, publication.

ESTABLISHMENT OF CHARGEABLE RATES

82 Stat. 576.
42 USC 4015.

SEC. 103. Section 1308 of the National Flood Insurance Act of 1968 is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, the chargeable rate with respect to any property, the construction or substantial improvement of which the Secretary determines has been started after

December 31, 1974, or the effective date of the initial rate map published by the Secretary under paragraph (2) of section 1360 for the area in which such property is located, whichever is later, shall not be less than the applicable estimated risk premium rate for such area (or subdivision thereof) under section 1307(a)(1).". 82 Stat. 587. 42 USC 4101. 42 USC 4014.

FINANCING

SEC. 104. Section 1309(a) of the National Flood Insurance Act of 1968 is amended by striking out all after the semicolon and inserting in lieu thereof the following: "except that the total amount of notes and obligations which may be issued by the Secretary 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 $1,000,000,000. The Secretary shall report to the Committee on Banking and Currency 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.". 82 Stat. 577. 42 USC 4016. Report to congressional committees.

PROGRAM EXPIRATION

SEC. 105. Section 1319 of the National Flood Insurance Act of 1968 is amended to read as follows: 82 Stat. 581. 42 USC 4026.

"PROGRAM EXPIRATION

"SEC. 1319. No new contract for flood insurance under this title shall be entered into after June 30, 1977.".

EMERGENCY IMPLEMENTATION OF PROGRAM

SEC. 106. Subsection (a) of section 1336 of the National Flood Insurance Act of 1968 is amended by striking the date "December 31, 1973" and inserting in lieu thereof "December 31, 1975". 83 Stat. 396; 85 Stat. 775. 42 USC 4056.

DEFINITION OF FLOOD

SEC. 107. Section 1370(b) of the National Flood Insurance Act of 1968 is amended by inserting "proximately" before "caused". 82 Stat. 588; 83 Stat. 397. 42 USC 4121.

EXTENSION OF FLOOD INSURANCE PROGRAM TO COVER LOSSES FROM EROSION AND UNDERMINING OF SHORELINES

SEC. 108. (a) Section 1302 of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new subsection: 42 USC 4001.

"(g) The Congress also finds that (1) the damage and loss which may result from the erosion and undermining of shorelines by waves or currents in lakes and other bodies of water exceeding anticipated cyclical levels is related in cause and similar in effect to that which results directly from storms, deluges, overflowing waters, and other forms of flooding, and (2) the problems involved in providing protection against this damage and loss, and the possibilities for making such protection available through a Federal or federally sponsored program, are similar to those which exist in connection with efforts to provide protection against damage and loss caused by such other forms of flooding. It is therefore the further purpose of this title to make available, by means of the methods, procedures, and instrumentalities which are otherwise established or available under this title for purposes of the flood insurance program, protection against damage and loss resulting from the erosion and undermining of shorelines by waves

or currents in lakes and other bodies of water exceeding anticipated cyclical levels.".

82 Stat. 588; 83 Stat. 397. 42 USC 4121. "Flood."

(b) Section 1370 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The term 'flood' shall also include the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, and all of the provisions of this title shall apply with respect to such collapse or subsidence in the same manner and to the same extent as with respect to floods described in paragraph (1), subject to and in accordance with such regulations, modifying the provisions of this title (including the provisions relating to land management and use) to the extent necessary to insure that they can be effectively so applied, as the Secretary may prescribe to achieve (with respect to such collapse or subsidence) the purposes of this title and the objectives of the program.".

ESTIMATES OF PREMIUM RATES

82 Stat. 576. 42 USC 4014.

SEC. 109. Section 1307 of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, any structure existing on the date of enactment of the Flood Disaster Protection Act of 1973 and located within Avoyelles, Evangeline, Rapides, or Saint Landry Parish in the State of Louisiana, which the Secretary determines is subject to additional flood hazards as a result of the construction or operation of the Atchafalaya Basin Levee System, shall be eligible for flood insurance under this title (if and to the extent it is eligible for such insurance under the other provisions of this title) at premium rates that shall not exceed those which would be applicable if such additional hazards did not exist.".

Ante, p. 975.

APPEALS

82 Stat. 587. 42 USC 4101.

SEC. 110. Chapter III of the National Flood Insurance Act of 1968 is amended by adding at the end thereof the following new section:

"APPEALS

42 USC 4102. Publication in Federal Register.

"SEC. 1363. (a) In establishing projected flood elevations for land use purposes with respect to any community pursuant to section 1361, the Secretary shall first propose such determinations by publication for comment in the Federal Register, by direct notification to the chief executive officer of the community, and by publication in a prominent local newspaper.

Flood elevation determinations, publication.

"(b) The Secretary shall publish notification of flood elevation determinations in a prominent local newspaper at least twice during the ten-day period following notification to the local government. During the ninety-day period following the second publication, any owner or lessee of real property within the community who believes his property rights to be adversely affected by the Secretary's proposed determination may appeal such determination to the local government. The sole basis for such appeal shall be the possession of knowledge or information indicating that the elevations being proposed by the Secretary with respect to an identified area having special flood hazards are scientifically or technically incorrect, and the sole relief which shall be granted under the authority of this section in the event that such appeal is sustained in accordance with subsection (e) or (f) is a modification of the Secretary's proposed determination accordingly.

"(c) Appeals by private persons shall be made to the chief executive officer of the community, or to such agency as he shall publicly designate, and shall set forth the data that tend to negate or contradict the Secretary's finding in such form as the chief executive officer may specify. The community shall review and consolidate all such appeals and issue a written opinion stating whether the evidence presented is sufficient to justify an appeal on behalf of such persons by the community in its own name. Whether or not the community decides to appeal the Secretary's determination, copies of individual appeals shall be sent to the Secretary as they are received by the community, and the community's appeal or a copy of its decision not to appeal shall be filed with the Secretary not later than ninety days after the date of the second newspaper publication of the Secretary's notification.

Appeals by private persons.

"(d) In the event the Secretary does not receive an appeal from the community within the ninety days provided, he shall consolidate and review on their own merits, in accordance with the procedures set forth in subsection (e), the appeals filed within the community by private persons and shall make such modifications of his proposed determinations as may be appropriate, taking into account the written opinion, if any, issued by the community in not supporting such appeals. The Secretary's decision shall be in written form, and copies thereof shall be sent both to the chief executive officer of the community and to each individual appellant.

Review.

"(e) Upon appeal by any community, as provided by this section, the Secretary shall review and take fully into account any technical or scientific data submitted by the community that tend to negate or contradict the information upon which his proposed determination is based. The Secretary shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice. Until the conflict in data is resolved, and the Secretary makes a final determination on the basis of his findings in the Federal Register, and so notifies the governing body of the community, flood insurance previously available within the community shall continue to be available, and no person shall be denied the right to purchase such insurance at chargeable rates. The Secretary shall make his determination within a reasonable time. The community shall be given a reasonable time after the Secretary's final determination in which to adopt local land use and control measures consistent with the Secretary's determination. The reports and other information used by the Secretary in making his final determination shall be made available for public inspection and shall be admissible in a court of law in the event the community seeks judicial review as provided by this section.

Information, availability.

"(f) Any appellant aggrieved by any final determination of the Secretary upon administrative appeal, as provided by this section, may appeal such determination to the United States district court for the district within which the community is located not more than sixty days after receipt of notice of such determination. The scope of review by the court shall be as provided by chapter 7 of title 5, United State Code. During the pendency of any such litigation, all final determinations of the Secretary shall be effective for the purposes of this title unless stayed by the court for good cause shown.".

80 Stat. 392.
5 USC 701.

FLOOD INSURANCE PREMIUM EQUALIZATION PAYMENTS

SEC. 111. Section 1334 of the National Flood Insurance Act of 1968 is amended by striking out subsection (b) and by redesignating subsection "(c)" as subsection "(b)".

82 Stat. 583.
42 USC 4054.

TITLE II—DISASTER MITIGATION REQUIREMENTS

NOTIFICATION TO FLOOD-PRONE AREAS

82 Stat. 587.
42 USC 4101.

SEC. 201. (a) Not later than six months following the enactment of this title, the Secretary shall publish information in accordance with subsection 1360(1) of the National Flood Insurance Act of 1968, and shall notify the chief executive officer of each known flood-prone community not already participating in the national flood insurance program of its tentative identification as a community containing one or more areas having special flood hazards.

Public hearing.

(b) After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the national flood insurance program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Secretary that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The Secretary may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the Secretary decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Secretary's final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

Notifications to other community officers.

(c) As information becomes available to the Secretary concerning the existence of flood hazards in communities not known to be flood prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

(d) Formally identified flood-prone communities that do not qualify for the national flood insurance program within one year after such notification or by the date specified in section 202, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program.

EFFECT OF NONPARTICIPATION IN FLOOD INSURANCE PROGRAM

SEC. 202. (a) No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the Secretary as an area having special flood hazards unless the community in which such area is situated is then participating in the national flood insurance program.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation prohibit such institutions on and after July 1, 1975, from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards, unless the community in which such area is situated is then participating in the national flood insurance program.

REPEAL OF DISASTER ASSISTANCE PENALTY

Repeal.
82 Stat. 579.
42 USC 4021.

SEC. 203. Section 1314 of the National Flood Insurance Act of 1968 is repealed.

ACCELERATED IDENTIFICATION OF FLOOD-RISK ZONES

SEC. 204. (a) Section 1360 of the National Flood Insurance Act of 1968 is amended by inserting the designation "(a)" after "SEC. 1360." and adding at the end thereof the following new subsections:

82 Stat. 587.
42 USC 4101.

"(b) The Secretary is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective, the Secretary is authorized, without regard to sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5), to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

Grants, technical assistance, etc., authorization.

"(c) The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the United States Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of the Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States shall, in consultation with the Secretary, give the highest practicable priority in the allocation of available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the Secretary to meet the deadline established by this section.".

AUTHORITY TO ISSUE REGULATIONS

SEC. 205. (a) The Secretary is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of publicly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions, shall, in cooperation with the Secretary, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act.

CONSULTATION WITH LOCAL OFFICIALS

SEC. 206. In carrying out his responsibilities under the provisions of this title and the National Flood Insurance Act of 1968 which relate to notification to and identification of flood-prone areas and the application of criteria for land management and use, including criteria derived from data reflecting new developments that may indicate the desirability of modifying elevations based on previous flood studies, the Secretary shall establish procedures assuring adequate consultation with the appropriate elected officials of general purpose local governments, including but not limited to those local governments whose prior eligibility under the program has been suspended. Such consultation shall include, but not be limited to, fully informing local officials at the commencement of any flood elevation study or investigation undertaken by any agency on behalf of the Secretary concerning the nature and purpose of the study, the areas involved, the manner in which the study is to be undertaken, the general principles to be applied, and the use to be made of the data obtained. The

82 Stat. 572.
42 USC 4001 note.

Secretary shall encourage local officials to disseminate information concerning such study widely within the community, so that interested persons will have an opportunity to bring all relevant facts and technical data concerning the local flood hazard to the attention of the agency during the course of the study.

TO PERMIT NATIONAL BANKS TO INVEST IN AGRICULTURAL CREDIT CORPORATIONS

SEC. 207. That paragraph "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following: "Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock. However, unless the association owns at least 80 per centum of the stock of such agricultural credit corporation the amount invested by the association at any one time in the stock of such corporation shall not exceed 20 per centum of the unimpaired capital and surplus of the association.".

FLEXIBLE INTEREST RATE AUTHORITY FOR MOBILE HOME LOANS

SEC. 208. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of section 2(b) of the National Housing Act regarding the maximum interest rate which may be established for obligations with respect to which insurance is granted to financial institutions under section 2 of such Act, the Secretary of Housing and Urban Development is also authorized, until the date specified in the preceding sentence, to set the maximum interest rate for obligations with respect to which insurance is granted under such section, and which represent loans and advances of credit made for the purpose of financing purchases of mobile homes, at such level as he finds necessary to meet the loan market.".

82 Stat. 113; 86 Stat. 405.

56 Stat. 305; 84 Stat. 1773. 12 USC. 1703.

Approved December 31, 1973.