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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R. _____

To provide for administrative reforms to the National Flood Insurance Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

A BILL

To provide for administrative reforms to the National Flood Insurance Program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Flood Insur-
5 ance Program Administrative Reform Act of 2017”.

1 **SEC. 2. PENALTIES FOR FRAUD AND FALSE STATEMENTS**
2 **IN THE NATIONAL FLOOD INSURANCE PRO-**
3 **GRAM.**

4 Part C of chapter 2 of the National Flood Insurance
5 Act of 1968 (42 U.S.C. 4081 et seq.) is amended by add-
6 ing at the end the following new section:

7 **“SEC. 1349. PENALTIES FOR FRAUD AND FALSE STATE-**
8 **MENTS IN THE NATIONAL FLOOD INSURANCE**
9 **PROGRAM.**

10 “(a) OFFENSE.—The Administrator shall prohibit, in
11 the preparation, production, or submission of any report
12 in connection with the proving or adjusting of a claim for
13 flood insurance coverage made available under this title,
14 including any engineering report or claims adjustment re-
15 port, any person to knowingly engage in the practice of
16 engineering without a license, to knowingly forge any such
17 report, or to knowingly make any materially false, ficti-
18 tious, or fraudulent statement or representation in such
19 a report.

20 “(b) PENALTIES.—Whoever violates subsection (a)
21 shall be subject to such penalties as the Administrator and
22 the Secretary of Homeland Security shall, by regulation,
23 establish, which may include suspension and debarment
24 from participation in the National Flood Insurance Pro-
25 gram.”.

1 **SEC. 3. ENHANCED POLICYHOLDER APPEALS PROCESS**
2 **RIGHTS.**

3 Part C of chapter II of the National Flood Insurance
4 Act of 1968 (42 U.S.C. 4081 et seq.), as amended by the
5 preceding provisions of this Act, is further amended by
6 adding at the end the following new section:

7 **“SEC. 1350. APPROVAL OF DECISIONS RELATING TO FLOOD**
8 **INSURANCE COVERAGE.**

9 “(a) IN GENERAL.—The Administrator shall estab-
10 lish an appeals process to enable holders of a flood insur-
11 ance policy provided under this title to appeal the decisions
12 of their insurer, with respect to the disallowance, in whole
13 or in part, of any claims for proved and approved losses
14 covered by flood insurance. Such appeals shall be limited
15 to the claim or portion of the claim disallowed by the in-
16 surer.

17 “(b) APPEAL DECISION.—Upon a decision in an ap-
18 peal under subsection (a), the Administrator shall provide
19 the policyholder with a written appeal decision. The appeal
20 decision shall explain the Administrator’s determination to
21 uphold or overturn the decision of the flood insurer. The
22 Administrator may direct the flood insurer to take action
23 necessary to resolve the appeal, to include re-inspection,
24 re-adjustment, or payment, as appropriate.

25 “(c) RULES OF CONSTRUCTION.—This section shall
26 not be construed as—

1 “(1) making the Federal Emergency Manage-
2 ment Agency or the Administrator a party to the
3 flood insurance contract; or

4 “(2) creating any action or remedy not other-
5 wise provided by this title.’”.

6 **SEC. 4. DEADLINE FOR APPROVAL OF CLAIMS.**

7 (a) IN GENERAL.—Section 1312 of the National
8 Flood Insurance Act of 1968 (42 U.S.C. 4019) is amend-
9 ed—

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

13 (2) by adding at the end the following new sub-
14 section:

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

16 “(1) IN GENERAL.—The Administrator shall
17 provide that, in the case of any claim for damage to
18 or loss of property under flood insurance coverage
19 made available under this title, a final determination
20 regarding approval of a claim for payment or dis-
21 approval of the claim be made, and notification of
22 such determination be provided to the insured mak-
23 ing such claim, not later than the expiration of the
24 90-day period (as such period may be extended pur-
25 suant to paragraph (2)) beginning upon the day on

1 which such claim was made. Payment of approved
2 claims shall be made as soon as possible after such
3 approval.

4 “(2) EXTENSION OF DEADLINE.—The Adminis-
5 trator shall provide that the period referred to in
6 paragraph (1) may be extended by a single addi-
7 tional period of 15 days in cases where extraordinary
8 circumstances are demonstrated. The Administrator
9 shall, by regulation, establish criteria for dem-
10 onstrating such extraordinary circumstances and for
11 determining to which claims such extraordinary cir-
12 cumstances apply.”.

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

19 **SEC. 5. LITIGATION PROCESS OVERSIGHT AND REFORM.**

20 (a) IN GENERAL.—Part C of chapter II of the Na-
21 tional Flood Insurance Act of 1968 (42 U.S.C. 4081 et
22 seq.), as amended by the preceding provisions of this Act,
23 is further amended by adding at the end the following new
24 section:

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

2 “(a) OVERSIGHT.—The Administrator shall monitor
3 and oversee litigation conducted by Write Your Own com-
4 panies arising under contracts for flood insurance sold
5 pursuant to this title, to ensure that—

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

8 “(2) Write Your Own companies comply with
9 guidance and procedures established by the Adminis-
10 trator regarding the conduct of litigation.

11 “(b) DENIAL OF REIMBURSEMENT FOR EX-
12 PENSES.—The Administrator may deny reimbursement
13 for litigation expenses that are determined to be unreason-
14 able, excessive, contrary to guidance issued by the Admin-
15 istrator, or outside the scope of any arrangement entered
16 into with a Write Your Own company.

17 “(c) LITIGATION STRATEGY.—The Administrator
18 may direct litigation strategy for claims arising under a
19 contract for flood insurance sold by a Write Your Own
20 company.

21 “(d) SUBSTITUTION.—If at any time, the Adminis-
22 trator determines there is a conflict of interest between
23 the Write Your Own company and the National Flood In-
24 surance Program, or it is in the best interest of the United
25 States, the Administrator may promptly take any nec-
26 essary action to be substituted for the WYO company in

1 any action arising out of any claim arising under a con-
2 tract for flood insurance sold by a Write Your Own com-
3 pany.”.

4 (b) IMPLEMENTATION.—The Administrator of the
5 Federal Emergency Management Agency shall initiate
6 compliance with Section 1352(d) of the National Flood In-
7 surance Act of 1968, as added by the amendment made
8 by subsection (a) of this section, not later than the expira-
9 tion of the 12-month period beginning on the date of the
10 enactment of this Act.

11 **SEC. 6. PROHIBITION ON HIRING DISBARRED ATTORNEYS.**

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

16 **“SEC. 1352. PROHIBITION ON HIRING DISBARRED ATTOR-**
17 **NEYS.**

18 “The Administrator may not at any time newly em-
19 ploy in connection with the flood insurance program under
20 this title any attorney who has been suspended or dis-
21 barred by any court, bar, or Federal or State agency to
22 which the individual was previously admitted to practice.”.

1 **SEC. 7. UNDERPAYMENT OF CLAIMS BY WRITE YOUR OWN**
2 **COMPANIES.**

3 Section 1345 of the National Flood Insurance Act of
4 1968 (42 U.S.C. 4081) is amended by adding at the end
5 the following new subsection:

6 “(f) UNDERPAYMENT OF CLAIMS BY WYO COMPA-
7 NIES.—The Administrator shall establish penalties for
8 companies participating in the Write Your Own program
9 knowingly underpaying claims for losses covered by flood
10 insurance made available under this title, which penalties
11 shall be commensurate, with respect to the amount of the
12 penalty, to the penalties applicable to overpayment of such
13 claims by a similar amount by such companies.”.

14 **SEC. 8. TECHNICAL ASSISTANCE REPORTS.**

15 (a) USE.—Section 1312 of the National Flood Insur-
16 ance Act of 1968 (42 U.S.C. 4019), as amended by the
17 preceding provisions of this Act, is further amended by
18 adding at the end the following new subsection:

19 “(e) USE OF TECHNICAL ASSISTANCE REPORTS.—
20 When adjusting claims for any damage to or loss of prop-
21 erty which is covered by flood insurance made available
22 under this title, the Administrator may rely upon technical
23 assistance reports, as such term is defined in section
24 1312A, only if such reports are final and are prepared
25 in compliance with applicable State and Federal laws re-
26 garding professional licensure and conduct.”.

1 (b) DISCLOSURE.—The National Flood Insurance
2 Act of 1968 is amended by inserting after section 1312
3 (42 U.S.C. 4019) the following new section:

4 **“SEC. 1312A. DISCLOSURE OF TECHNICAL ASSISTANCE RE-**
5 **PORTS.**

6 “(a) IN GENERAL.—Notwithstanding section 552a of
7 title 5, United States Code, upon request by a policy-
8 holder, the Administrator shall provide a true, complete,
9 and unredacted copy of any technical assistance report
10 that the Administrator relied upon in adjusting and pay-
11 ing for any damage to or loss of property insured by the
12 policyholder and covered by flood insurance made available
13 under this title. Such disclosures shall be in addition to
14 any other right of disclosure otherwise made available pur-
15 suant such section 552a or any other provision of law.

16 “(b) DIRECT DISCLOSURE BY WRITE YOUR OWN
17 COMPANIES AND DIRECT SERVICING AGENTS.—A Write
18 Your Own company or direct servicing agent in possession
19 of a technical assistance report subject to disclosure under
20 subsection (a) may disclose such technical assistance re-
21 port without further review or approval by the Adminis-
22 trator.

23 “(c) DEFINITIONS.—For purposes of this section, the
24 following definitions shall apply:

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

5 “(2) TECHNICAL ASSISTANCE REPORT.—The
6 term ‘technical assistance report’ means a report
7 created for the purpose of furnishing technical as-
8 sistance to an insurance claims adjuster assigned by
9 the National Flood Insurance Program, including by
10 engineers, surveyors, salvors, architects, and cer-
11 tified public accounts.’”.

12 **SEC. 9. IMPROVED DISCLOSURE REQUIREMENT FOR**
13 **STANDARD FLOOD INSURANCE POLICIES.**

14 Section 100234 of the Biggert-Waters Flood Insur-
15 ance Reform Act of 2012 (42 U.S.C. 4013a) is amended
16 by adding at the end the following new subsections:

17 “(c) DISCLOSURE OF COVERAGE.—

18 “(1) DISCLOSURE SHEET.—Each policy under
19 the National Flood Insurance Program shall include
20 a disclosure sheet that sets forth, in plain lan-
21 guage—

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

24 “(B) a description of what type of flood
25 forces are necessary so that losses from an

1 event are covered under the policy, including
2 overflow of inland or tidal waves, unusual and
3 rapid accumulation or runoff of a surface any
4 source, and mudflow;

5 “(C) a statement of the types and charac-
6 teristics of losses that are not covered under the
7 policy;

8 “(D) a summary of total cost and amount
9 of insurance coverage, and any other informa-
10 tion relating to such coverage required to be
11 disclosed under section 1308(l) of the National
12 Flood Insurance Act of 1968 (42 U.S.C.
13 4015(l));

14 “(E) a statement that the disclosure sheet
15 provides general information about the policy-
16 holder’s standard flood insurance policy;

17 “(F) a statement that the standard flood
18 insurance policy, together with the application,
19 endorsements, and declarations page, make up
20 the official contract and are controlling in the
21 event that there is any difference between the
22 information on the disclosure sheet and the in-
23 formation in the policy; and

24 “(G) a statement that if the policyholder
25 has any questions regarding information in the

1 disclosure sheet or policy he or she should con-
2 tact the entity selling the policy on behalf of the
3 Program, together with contact information suf-
4 ficient to allow the policyholder to contact such
5 entity.

6 “(2) ACKNOWLEDGMENT SHEET.—Each policy
7 under the National Flood Insurance Program shall
8 include an acknowledgment sheet that sets forth, in
9 plain language—

10 “(A) a statement of whether or not there
11 is a basement in the property to be covered by
12 the policy;

13 “(B) a statement of whether or not the
14 policy provides coverage for the contents of the
15 property covered by the policy;

16 “(C) a statement that the standard flood
17 insurance policy, together with the application,
18 endorsements, and declarations page, make up
19 the official contract and are controlling in the
20 event that there is any difference between the
21 information on the acknowledgment sheet and
22 the information in the policy; and

23 “(D) a statement that if the policyholder
24 has any questions regarding information in the
25 acknowledgment sheet or policy he or she

1 should contact the entity selling the policy on
2 behalf of the Program, together with contact in-
3 formation sufficient to allow the policyholder to
4 contact such entity.

5 “(3) REQUIRED SIGNATURES.—A policy for
6 flood insurance coverage under the National Flood
7 Insurance Program may not take effect unless the
8 disclosure sheet required under paragraph (1) and
9 the acknowledgment sheet required under paragraph
10 (2), with respect to the policy, are signed and dated
11 by the policyholder and the seller of the policy who
12 is acting on behalf of the Program.”.

13 **SEC. 10. RESERVE FUND AMOUNTS.**

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

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

21 **SEC. 11. SUFFICIENT STAFFING FOR OFFICE OF FLOOD IN-**
22 **SURANCE ADVOCATE.**

23 (a) IN GENERAL.—Section 24 of the Homeowner
24 Flood Insurance Affordability Act of 2014 (42 U.S.C.

1 4033) is amended by adding at the end the following new
2 subsection:

3 “(c) STAFF.—The Administrator shall ensure that
4 the Flood Insurance Advocate has sufficient staff to carry
5 out all of the duties and responsibilities of the Advocate
6 under this section, which shall include providing direction
7 as necessary, including by direct conversations with insur-
8 ance agents.”.

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

17 **SEC. 12. TECHNICAL INSURANCE ADVISORY COUNCIL.**

18 (a) ESTABLISHMENT.—There is established a council
19 to be known as the Technical Insurance Advisory Council
20 (in this section referred to as the “Council”).

21 (b) MEMBERSHIP.—The Council shall consist of—

22 (1) the Administrator of the Federal Emer-
23 gency Management Agency (in this section referred
24 to as the “Administrator”, or the designee thereof;

1 (2) the Secretary of the Treasury, or the des-
2 ignee thereof; and

3 (3) additional members appointed by the Ad-
4 ministrators or the designees of the Administrators,
5 who shall be—

6 (A) two representatives of the property and
7 casualty insurance sector;

8 (B) two individuals who served in the past,
9 or are currently serving, as an insurance regu-
10 lator of a State, the District of Columbia, the
11 Commonwealth of Puerto Rico, Guam, the
12 Commonwealth of the Northern Mariana Is-
13 lands, the Virgin Islands, American Samoa, or
14 any federally-recognized Indian tribe;

15 (C) two representatives of the financial or
16 insurance sectors who are involved in risk
17 transfers, including reinsurance, resilience
18 bonds, and other insurance-linked securities;

19 (D) one representative of a recognized con-
20 sumer advocacy organization;

21 (E) one individual having demonstrated ex-
22 pertise in the challenges in insuring low-income
23 communities;

1 (F) one representative from an academic
2 institution who has demonstrated expertise in
3 insurance; and

4 (G) such other recognized experts in the
5 field of insurance as the Administrator con-
6 siders necessary.

7 (c) DUTIES.—The Council shall review, and make
8 recommendations to the Administrator, on matters related
9 to the insurance aspects of the National Flood Insurance
10 Program, including ratemaking, technology to administer
11 insurance, risk assessment, compensation and allowances,
12 generally and based on the complexities of the program,
13 and best insurance practices.

14 (d) CHAIRPERSON.—The members of the Council
15 shall elect one member to serve as the chairperson of the
16 Council (in this section referred to as the “Chairperson”).

17 (e) COMPENSATION.—Members of the Council shall
18 receive no additional compensation by reason of their serv-
19 ice on the Council.

20 (f) MEETINGS AND ACTIONS.—

21 (1) IN GENERAL.—The Council shall meet not
22 less frequently than twice each year at the request
23 of the Chairperson or a majority of its members,
24 and may take action by a vote of the majority of the
25 members.

1 (2) INITIAL MEETING.—The Administrator, or
2 a person designated by the Administrator, shall re-
3 quest and coordinate the initial meeting of the Coun-
4 cil.

5 (g) STAFF OF FEMA.—Upon the request of the
6 Chairperson, the Administrator may detail, on a non-
7 reimbursable basis, personnel of the Federal Emergency
8 Management Agency to assist the Council in carrying out
9 its duties.

10 (h) POWERS.—In carrying out this section, the Coun-
11 cil may hold hearings, receive evidence and assistance, pro-
12 vide information, and conduct research, as it considers ap-
13 propriate.

14 (i) REPORTS TO CONGRESS.—The Administrator, on
15 an annual basis, shall report to the Committee on Finan-
16 cial Services of the House of Representatives, the Com-
17 mittee on Banking, Housing, and Urban Affairs of the
18 Senate, and the Office of Management and Budget on—

19 (1) the recommendations made by the Council;

20 (2) actions taken by the Federal Emergency
21 Management Agency to address such recommenda-
22 tions to improve the insurance aspects of the na-
23 tional flood insurance program; and

1 (3) any recommendations made by the Council
2 that have been deferred or not acted upon, together
3 with an explanatory statement.

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

5 Not later than the expiration of the 12-month period
6 beginning on the date of the enactment of this Act, and
7 at least biennial thereafter, the Administrator of the Fed-
8 eral Emergency Management Agency, the Comptroller of
9 the Currency, the Board of Governors of the Federal Re-
10 serve System, the Federal Deposit Insurance Corporation,
11 the Office of Thrift Supervision, and the National Credit
12 Union Administration shall update and reissue the docu-
13 ment entitled “Interagency Questions and Answers Re-
14 garding Flood Insurance”.

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

16 The Comptroller General of the United States shall
17 conduct a study of the policies and practices for adjust-
18 ment of claims for losses under flood insurance coverage
19 made available under the National Flood Insurance Act,
20 which shall include—

21 (1) a comparison such policies and practices
22 with the policies and practices for adjustment of
23 claims for losses under other insurance coverage;

1 (2) an assessment the quality of the adjust-
2 ments conducted and the effects of such policies and
3 practices on such quality;

4 (3) identification of any incentives under such
5 policies and practices that affect the speed with
6 which such adjustments are conducted; and

7 (4) identification of the affects of such policies
8 and practices on insureds submitting such claims for
9 losses.

10 Not later than the expiration of the 18-month period be-
11 ginning on the date of the enactment of this Act, the
12 Comptroller General shall submit a report to the Com-
13 mittee on Financial Services of the House of Representa-
14 tives and the Committee on Banking, Housing, and Urban
15 Affairs of the Senate regarding the findings and conclu-
16 sions of the study conducted pursuant to this section.

17 **SEC. 15. GAO STUDY OF FLOOD INSURANCE COVERAGE**
18 **TREATMENT OF EARTH MOVEMENT.**

19 The Comptroller General of the United States shall
20 conduct a study of the treatment, under flood insurance
21 coverage made available under the National Flood Insur-
22 ance Act, of earth movement and subsidence, including
23 earth movement and subsidence caused by flooding, which
24 shall include—

1 (1) identification and analysis of the effects of
2 such treatment on the National Flood Insurance
3 Program and insureds under the program;

4 (2) an assessment of the availability and afford-
5 ability of coverage in the private insurance market
6 for earth movement and subsidence caused by flood-
7 ing; and

8 (3) an assessment of the effects on the National
9 Flood Insurance Program of covering earth move-
10 ment and subsidence caused by flooding.

11 Not later than the expiration of the 18-month period be-
12 ginning on the date of the enactment of this Act, the
13 Comptroller General shall submit a report to the Com-
14 mittee on Financial Services of the House of Representa-
15 tives and the Committee on Banking, Housing, and Urban
16 Affairs of the Senate regarding the findings and conclu-
17 sions of the study conducted pursuant to this section.

18 **SEC. 16. DEFINITIONS.**

19 (a) NATIONAL FLOOD INSURANCE ACT OF 1968.—
20 Subsection (a) of section 1370 of the National Flood In-
21 surance Act of 1968 (42 U.S.C. 4121(a)) is amended—

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

24 (2) in paragraph (15), by striking the period at
25 the end and inserting a semicolon; and

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

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

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

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

19 “(5) WRITE YOUR OWN.—The terms ‘Write
20 Your Own Program’ and ‘Write Your Own company’
21 have the meanings given such terms in section
22 1370(a) of the National Flood Insurance Act of
23 1968 (42 U.S.C. 4121(a)).”.