

109TH CONGRESS
1ST SESSION

S. 1936

To strengthen the national flood insurance program, encourage participation in the program, and provide owners of properties not located in flood hazard zones a one-time opportunity to purchase flood insurance coverage for a period covering such hurricane.

IN THE SENATE OF THE UNITED STATES

OCTOBER 27, 2005

Mr. LOTT introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To strengthen the national flood insurance program, encourage participation in the program, and provide owners of properties not located in flood hazard zones a one-time opportunity to purchase flood insurance coverage for a period covering such hurricane.

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 “Hurricanes Katrina
5 and Rita Flood Insurance Buy-In Act of 2005”.

1 **SEC. 2. TEMPORARY FLOOD INSURANCE BUY-IN PROGRAM.**

2 (a) IN GENERAL.—The Director of the Federal
3 Emergency Management Agency shall make available
4 flood insurance coverage under the national flood insur-
5 ance program for eligible structures, in accordance with
6 this section.

7 (b) SCOPE OF COVERAGE.—

8 (1) ELIGIBLE LOSSES.—Coverage may be made
9 available under this section only for damage or loss
10 to an eligible structure, but not including any con-
11 tents thereof, from flooding resulting from Hurri-
12 cane Katrina or Hurricane Rita of 2005.

13 (2) AMOUNT.—The amount of coverage made
14 available under this section for an eligible structure
15 may not exceed the lesser of—

16 (A) the maximum amount of coverage that
17 may be made available for such structure under
18 the national flood insurance program; and

19 (B) the amount of coverage provided for
20 the structure, as of August 29, 2005, under the
21 policy for losses caused by wind or windstorm
22 (as referred to in subsection (c)(4)).

23 (c) ELIGIBLE STRUCTURES.—For purposes of this
24 section, an eligible structure is a structure that—

25 (1) sustained damage from flooding resulting
26 from Hurricane Katrina or Hurricane Rita of 2005;

1 (2) is of a type (including residential properties,
2 business properties, and others) for which coverage
3 was generally made available under the national
4 flood insurance program as of August 29, 2005;

5 (3) is located in a covered disaster area;

6 (4) was covered—

7 (A) in the case of a structure damaged by
8 flooding resulting from Hurricane Katrina, as
9 of August 29, 2005, by an insurance policy for
10 losses caused by wind or windstorm; and

11 (B) in the case of a structure damaged by
12 flooding resulting from Hurricane Rita, as of
13 September 23, 2005, by such a policy;

14 (5) is not located in an area that has been iden-
15 tified by the Director as an area having special flood
16 hazards (as such term is used for purposes of sec-
17 tion 102 of the Flood Disaster Protection Act of
18 1973 (42 U.S.C. 4012a)); and

19 (6) was not covered by flood insurance made
20 available under the national flood insurance program
21 at the time of such damage.

22 (d) PREMIUMS.—

23 (1) AMOUNT.—The Director shall charge, for
24 coverage made available under this section for an eli-
25 gible structure, premiums in the amount equal to

1 105 percent of the aggregate amount of premiums
2 that would have been charged, at the time, for cov-
3 erage for the structure under the national flood in-
4 surance program (for the type and amount of cov-
5 erage provided) for the 10-year period that ends
6 upon the date of purchase of such coverage.

7 (2) DEDUCTION FROM CLAIMS.—The Director
8 shall provide that a purchaser of coverage made
9 available under this section may pay premiums
10 charged for such coverage under paragraph (1) by
11 deducting such amounts from the amount of any
12 claims payable under such coverage.

13 (3) CREDITS TO NFIF.—There shall be credited
14 to the National Flood Insurance Fund established
15 under section 1310 of the National Flood Insurance
16 Act of 1968 (42 U.S.C. 4017) the following
17 amounts:

18 (A) Any premiums collected pursuant to
19 this section.

20 (B) From amounts appropriated under
21 subsection (i)(1), an amount equal to the
22 amount of any premiums charged for coverage
23 made available under this subsection that are
24 not collected by the Director as a result of the
25 operation of paragraph (2).

1 (e) CLAIMS.—

2 (1) IN GENERAL.—Claims for damage or loss
3 pursuant to coverage made available under this sec-
4 tion may be paid only from amounts made available
5 in appropriation Acts under subsection (i).

6 (2) EXCLUSION.—Amounts in the National
7 Flood Insurance Fund established under section
8 1310 of the National Flood Insurance Act of 1968
9 (42 U.S.C. 4017), including any amount credited to
10 such Fund under subsection (d)(3), shall not be
11 available for paying claims under coverage made
12 available under this section.

13 (f) REQUIREMENTS TO OBTAIN FUTURE COVERAGE
14 AND TAKE MITIGATION ACTIONS.—The Director may not
15 make coverage available under this section for an eligible
16 structure unless the owner of the structure enters into a
17 binding agreement, contained in such deed restrictions as
18 the Director considers appropriate, to ensure that such
19 owner, and any future owners, will—

20 (1) at all times after purchasing coverage under
21 this section for the structure, in perpetuity, maintain
22 coverage under the national flood insurance pro-
23 gram, for any structures located at any time on the
24 same property on which, at the time of purchase,

1 such eligible structure is located, in an amount at
2 least equal to the lesser of—

3 (A) the value of the structure, as deter-
4 mined by the Director; or

5 (B) the maximum limit of coverage made
6 available with respect to the particular type of
7 property under the national flood insurance
8 program; and

9 (2) accept any offer to take mitigation actions
10 or activities made, with respect to the structure,
11 under a mitigation program under section 1323,
12 1361A, or 1366 of the National Flood Insurance Act
13 of 1968 (42 U.S.C. 4030, 4102a, 4104c).

14 (g) PREMIUM RATES FOR FUTURE COVERAGE.—In
15 establishing rates for flood insurance coverage, other than
16 coverage under this section, made available under the na-
17 tional flood insurance program, the Director shall not con-
18 sider, in any manner—

19 (1) any premiums charged or collected under
20 subsection (d);

21 (2) any claims paid pursuant to coverage made
22 available under this section; or

23 (3) any amounts appropriated under subsection
24 (i).

1 (h) DEFINITIONS.—For purposes of this section, the
2 following definitions shall apply:

3 (1) COVERED DISASTER AREA.—The term “cov-
4 ered disaster area” means an area—

5 (A) for which a major disaster was de-
6 clared by the President pursuant to title IV of
7 the Robert T. Stafford Disaster Relief and
8 Emergency Assistance Act (42 U.S.C. 5121 et
9 seq.) as a result of Hurricane Katrina or Hurri-
10 cane Rita of 2005; and

11 (B) in which the sale of flood insurance
12 coverage was available under the National
13 Flood Insurance Act of 1968 (42 U.S.C. 4001
14 et seq.) as of August 25, 2005.

15 (2) DIRECTOR.—The term “Director” means
16 the Director of the Federal Emergency Management
17 Agency.

18 (i) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) FOR CLAIMS PAYMENTS.—There are au-
20 thorized to be appropriated to the Director, such
21 sums as may be necessary to cover all costs of flood
22 insurance coverage made available under this sec-
23 tion, including administrative expenses and claims
24 under such coverage.

1 (2) FOR MITIGATION ASSISTANCE.—There are
2 authorized to be appropriated such sums as may be
3 necessary, for the National Flood Insurance Fund
4 established under section 1310 of the National
5 Flood Insurance Act of 1968 (42 U.S.C. 4017) and
6 for the National Flood Mitigation Fund established
7 under section 1367 of such Act (42 U.S.C. 4104d),
8 for use only for mitigation activities under the pro-
9 grams under sections 1323, 1361A, and 1366 of the
10 National Flood Insurance Act of 1968 (42 U.S.C.
11 4030, 4102a, 4104e), as appropriate, for eligible
12 structures.

13 (j) PUBLIC NOTICE.—Not later than 30 days after
14 the date of enactment of this Act, the Director shall issue
15 and widely disseminate in the covered disaster area public
16 notice of the procedures to be followed for application for
17 flood insurance authorized by this Act.

18 (k) TERMINATION.—The Director may not enter into
19 any contract or policy for coverage under this section ex-
20 cept pursuant to an application for such coverage sub-
21 mitted to the Director before the expiration of the 90-day
22 period beginning on the date that the public notice de-
23 scribed in subsection (j) is issued.

○