

(6) “inspection facility”, with respect to any State, means any rating bureau or other person designated by the State insurance authority to perform inspections under fair access to insurance requirements plans under part A;

(7) “insurer” includes any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State;

(8) “pool” means any pool or association of insurance companies in any State which is formed, associated, or otherwise created for the purpose of making property insurance more readily available;

(9) “losses resulting from riots or civil disorders” means losses resulting from riots or civil disorders under policies for standard lines of property insurance for which reinsurance is offered under section 1749bbb-7 of this title, as determined under regulations of the Director;

(10) “property owner” with respect to any real, personal, or mixed real and personal property, means any person having an insurable interest in such property;

(11) “person” includes any individual or group of individuals, corporation, partnership, or association, or any other organized group of persons;

(12) “reinsured losses” means losses on reinsurance claims and all direct expenses incurred in connection therewith including, but not limited to, expenses for processing, verifying, and paying such losses;

(13) “standard line of property insurance” includes—

- (A) fire and extended coverage;
- (B) vandalism and malicious mischief;
- (C) other allied lines of fire insurance;
- (D) burglary and theft;
- (E) those portions of multiple peril policies covering perils similar to those provided for in subparagraphs (A), (B), (C), and (D);
- (F) inland marine;
- (G) glass;
- (H) boiler and machinery;
- (I) ocean marine;
- (J) aircraft physical damage; and
- (K) such other lines generally offered to the public which include protection against damage from riot or civil commotion as the Director by regulation may designate;

(14) “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands;

(15) “urban area” includes any municipality or other political subdivision of a State, subject to population or other limitations defined in rules and regulations of the Director and such additional areas as may be designated by the State insurance authority;

(16) “year” means a calendar year, fiscal year of a company, or such other period of twelve months as may be designated by the Director; and

(17) “Director” means the Director of the Federal Emergency Management Agency.

(b) The Director is authorized to define, by rules and regulations, any technical or trade

term, insofar as such definition is not inconsistent with the provisions of this subchapter.

(June 27, 1934, ch. 847, title XII, §1203, as added Aug. 1, 1968, Pub. L. 90-448, title XI, §1103, 82 Stat. 557; amended Dec. 31, 1970, Pub. L. 91-609, title VI, §602(b), 84 Stat. 1788; Nov. 30, 1983, Pub. L. 98-181, title IV, §452(b)(1), (2), 97 Stat. 1230.)

#### AMENDMENTS

1983—Subsec. (a)(1), (2), (5), (9), (13)(K), (15), (16). Pub. L. 98-181, §452(b)(1), substituted “Director” for “Secretary”.

Subsec. (a)(17). Pub. L. 98-181, §452(b)(2), added par. (17).

Subsec. (b). Pub. L. 98-181, §452(b)(1), substituted “Director” for “Secretary”.

1970—Subsec. (a). Pub. L. 91-609 added pars. (1) to (3) and redesignated former pars. (1) to (13) as (4) to (16), respectively.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb-7 of this title.

#### PART A—STATEWIDE PLANS TO ASSURE FAIR ACCESS TO INSURANCE REQUIREMENTS

##### PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1749bbb, 1749bbb-2, 1749bbb-7, 1749bbb-9, 1749bbb-16 of this title.

### § 1749bbb-3. FAIR plans

#### (a) Cooperation by insurers with State insurance authorities

Each insurer reinsured under this subchapter shall cooperate with the State insurance authority in each State in which it is to acquire such reinsurance in establishing and carrying out statewide plans to assure fair access to insurance requirements (FAIR plans).

#### (b) Approval and administration of plans; provisions of plans

Such plans must be approved by, and administered under the supervision of, the State insurance authority, or be authorized or required by State law, and shall be designed to make essential property insurance more readily available in, but not necessarily limited to, urban areas. Such plans may vary in detail from State to State because of local conditions, but all plans shall contain provisions that—

(1) no risk shall be written at surcharged rates or be denied insurance coverage for essential property insurance unless there has first been an inspection of the risk, without cost to the owner, by an inspection facility and a determination by the insurer, based on information in the inspection report and other sources, that the risk does not meet reasonable underwriting standards at the applicable premium rate;

(2) inspections under the plan may be requested by the property owner or his representative, the insurer, or the insurance agent, broker or other producer, and such requests need not be made in writing;

(3) the absence of a building owner or his representative during an inspection shall not preclude a tenant seeking insurance from obtaining an inspection under the plan;

(4) following the inspection, a copy of the inspection report shall be promptly sent by the inspection facility to the insurer or insurers, or to an all-industry placement facility referred to under section 1749bbb-4 of this title, as may be designated by the person requesting the inspection;

(5) after the inspection report is received by an insurer, it shall promptly determine if the risk meets reasonable underwriting standards at the applicable premium rate, and shall promptly return to the inspection facility the inspection report and provide an action report setting forth—

(A)(i) the amount of coverage it agrees to write; and if the insurer agrees to write the coverage with a surcharge (if such a surcharge is authorized by the State insurance authority), the improvements necessary before it will provide coverage at an un-surcharged premium rate; and

(ii) the amount of coverage it agrees to write if certain improvements specified in the action report are made; or

(B) the specific reasons it declines to write coverage;

(6) if the insurer declines the risk, or agrees to write the coverage sought on condition that the property will be improved, it shall also promptly send a copy of both the inspection and action reports to the property owner and the State insurance authority, and at the time the insurer sends such reports to the property owner, it shall also explain his right, under applicable State laws, to appeal the decision of the insurer to the State insurance authority, setting forth the procedures to be followed for such appeal;

(7) all policies written pursuant to the plan shall be promptly written after inspection or reinspection and shall be separately coded so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the plan;

(8) the inspection facility shall submit to the State insurance authority and to the Director periodic reports setting forth information, by individual insurers, including the number of risks inspected under the plan, the number of risks accepted, the number of risks conditionally accepted and reinspections made, the number of risks declined, and such other information as the State insurance authority may request;

(9) notice will be given to any policyholder a reasonable time prior to the cancellation or nonrenewal of any risk eligible under the plan (except in case of nonpayment of premium or evidence of incendiarism), to allow ample time for an application for new coverage to be made and a new policy to be written under the plan, and the insurer shall, in writing, explain to the policyholder the procedures for obtaining an inspection under the plan in the notice of cancellation or nonrenewal; and

(10) a continuing public education program will be undertaken by the participating insur-

ers, agents, and brokers to assure that the plan receives adequate public attention.

**(c) Membership of board of directors, board, etc., for each plan**

At least one-third of the voting members of every board of directors, board of governors, advisory committee, and other governing or advisory board or committee for each plan described in subsection (b) of this section shall be individuals who are not employed by, or otherwise affiliated with, insurers, insurance agents, brokers, producers, or other entities of the insurance industry.

(June 27, 1934, ch. 847, title XII, §1211, as added Aug. 1, 1968, Pub. L. 90-448, title XI, §1103, 82 Stat. 558; amended Oct. 31, 1978, Pub. L. 95-557, title III, §307(b), (c), 92 Stat. 2097, 2098; Aug. 13, 1981, Pub. L. 97-35, title III, §342(b), 95 Stat. 420; Nov. 30, 1983, Pub. L. 98-181, title IV, §452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsec. (b)(8). Pub. L. 98-181 substituted “Director” for “Secretary”.

1981—Subsec. (b)(11). Pub. L. 97-35 struck out par. (11) which related to maximum rate of insurance for risks within the plan on and after Jan. 31, 1979.

1978—Subsec. (b)(11). Pub. L. 95-557, §307(c), added par. (11).

Subsec. (c). Pub. L. 95-557, §307(b), added subsec. (c).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

**§ 1749bbb-4. All-industry placement facility**

Any plan under this part shall include an all-industry placement facility doing business with every insurer participating in the plan in the State, and shall provide that this facility shall perform certain functions including, but not limited to, the following:

(1) seeking, upon request by or on behalf of any property owner requesting an inspection under the plan, to distribute the risks involved equitably among the insurers with which it is doing business; and

(2) seeking to place insurance up to the full insurable value of the risk to be insured with one or more insurers with which it is doing business, except to the extent that deductibles, percentage participation clauses, and other underwriting devices are employed to meet special problems of insurability.

(June 27, 1934, ch. 847, title XII, §1212, as added Aug. 1, 1968, Pub. L. 90-448, title XI, §1103, 82 Stat. 560.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb-3 of this title.

**§ 1749bbb-5. Industry cooperation**

(a) Each insurer seeking reinsurance under this subchapter shall file a statement with the State insurance authority in each State in which it is participating in a plan under this part, pledging its full participation and cooperation in carrying out the plan, and shall file a copy of such statement with the Director.

(b) No insurer acquiring reinsurance under this subchapter shall direct any agent or broker or other producer not to solicit business through such a plan, nor shall any agent, broker, or other producer be penalized by such insurer in any way for submitting applications for insurance to an insurer under the plan.

(June 27, 1934, ch. 847, title XII, §1213, as added Aug. 1, 1968, Pub. L. 90-448, title XI, §1103, 82 Stat. 560; amended Nov. 30, 1983, Pub. L. 98-181, title IV, § 452(b)(1), 97 Stat. 1230.)

## AMENDMENTS

1983—Subsec. (a). Pub. L. 98-181 substituted “Director” for “Secretary”.

**§ 1749bbb-6. Plan evaluation; modification or waiver of plan criteria**

(a) In accordance with such rules and regulations as the Director may prescribe, each State insurance authority shall—

(1) transmit to the Director any proposed or adopted plan, or amendments thereto; and

(2) advise the Director, from time to time, concerning the operation of the plan, its effectiveness in providing essential property insurance, and the need to form a pool of insurers or adopt other programs to make essential property insurance more readily available in urban areas of the State.

(b) The Director may, after full consultation with the Board, by rules and regulations, modify the plan criteria set forth under this part, if he finds, on the basis of experience, that such action is necessary or desirable to carry out the purposes of this subchapter. The Director may also, with respect to any State, waive compliance with one or more of the plan criteria, upon certification by the State insurance authority that compliance is unnecessary or inadvisable under local conditions or State law.

(June 27, 1934, ch. 847, title XII, §1214, as added Aug. 1, 1968, Pub. L. 90-448, title XI, §1103, 82 Stat. 560; amended Nov. 30, 1983, Pub. L. 98-181, title IV, § 452(b)(1), 97 Stat. 1230.)

## AMENDMENTS

1983—Pub. L. 98-181 substituted “Director” for “Secretary” wherever appearing.

**§ 1749bbb-6a. Office of Review and Compliance**

The Director, through an Office of Review and Compliance under the Federal Insurance Administrator, shall periodically review each plan under this part and the methods and practices by which such plan is being actually carried out in the areas and communities where it is intended to operate, in order to assure that such plan is effectively making essential property insurance readily available in such areas and communities and is otherwise carrying out the purposes of this subchapter, and in order to identify any aspects of the operation or administration of such plan which may require revision, modification, or other action to carry out such purposes.

(June 27, 1934, ch. 847, title XII, §1215, as added Dec. 31, 1970, Pub. L. 91-609, title VI, §603, 84 Stat. 1791; amended Nov. 30, 1983, Pub. L. 98-181, title IV, § 452(b)(1), 97 Stat. 1230.)

## AMENDMENTS

1983—Pub. L. 98-181 substituted “Director” for “Secretary”.

## PART B—REINSURANCE COVERAGE

## PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1749bbb, 1749bbb-13 of this title.

**§ 1749bbb-7. Reinsurance of losses from riots or civil disorders**

**(a) Authorization; lines of property insurance included**

(1) The Director is authorized to offer to any insurer or pool, subject to the conditions set forth in section 1749bbb-9 of this title, reinsurance against property losses resulting from riots or civil disorders in any one or more States.

(2) Reinsurance shall be offered to any such insurer or pool only on all standard lines of property insurance enumerated under subparagraphs (A) through (E) of section 1749bbb-2(a)(13) of this title together, and any insurer or pool purchasing such reinsurance shall also be eligible, to purchase reinsurance on any one or more standard lines of property insurance enumerated under subparagraphs (F) through (J) of section 1749bbb-2(a)(13) of this title or which may be designated by regulation pursuant to subparagraph (K) of that section.

**(b) Temporary coverage**

Reinsurance coverage under this section may be provided immediately following August 1, 1968, to any insurer or pool in any State on a temporary basis, and on such terms and conditions as may be agreed upon, and coverage under such terms and conditions may be bound with respect to any such insurer or pool by means of a written binder which shall remain in force not more than ninety days and shall expire at the earlier of either—

(1) the termination of such ninety-day period, or

(2) the effective date of any governing contract, agreement, treaty, or other arrangement entered into between the insurer or pool and the Director under section 1749bbb-8 of this title for the purpose of providing reinsurance coverage against losses resulting from riots or civil disorders.

**(c) Participation in State plan or pool**

No reinsurance shall be offered to any insurer or pool in a State after the expiration of the written binder entered into under subsection (b) of this section, unless there is in effect in such State a plan as set forth under part A and the insurer or pool is participating in such plan, and unless, in the case of an insurer in a State where a pool has been established pursuant to State Law, the insurer is participating in such a pool.

(June 27, 1934, ch. 847, title XII, §1221, as added Aug. 1, 1968, Pub. L. 90-448, title XI, §1103, 82 Stat. 560; amended Dec. 31, 1970, Pub. L. 91-609, title VI, §602(c), 84 Stat. 1789; Nov. 30, 1983, Pub. L. 98-181, title IV, § 452(b)(1), 97 Stat. 1230.)

## AMENDMENTS

1983—Subsecs. (a)(1), (b)(2). Pub. L. 98-181 substituted “Director” for “Secretary”.