105TH CONGRESS
1ST SESSION

H. R. 230

To ensure that insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, is available and affordable, and to provide for expanded hazard mitigation and relief, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. MCCOLLUM (for himself, Mr. SHAW, Mr. LAZIO of New York, Mrs. EMERSON, Mr. BILIRAKIS, Mr. CANADY of Florida, Mr. DIAZ-BALART, Mr. DEUTSCH, Mrs. FOWLER, Mr. HASTINGS of Florida, Mrs. MEEK of Florida, Mr. MICA, Ms. ROS-LEHTINEN, Mr. SCARBOROUGH, and Mr. STEARNS) introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To ensure that insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, is available and affordable, and to provide for expanded hazard mitigation and relief, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Natural Disaster Protection and Insurance Act of 1997".

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

SEC. 2. FINDINGS.

The Congress finds that—

(1) in addition to earthquakes, other catastrophic natural disasters, such as major hurricanes and volcanic eruptions, will—

(A) continue to strike the United States; and

(B) inflict substantial long-term adverse consequences in terms of deaths, injuries, damage to property and other economic losses, as well as social problems;

(2) the Federal Government and the governments of States and local communities are often not adequately equipped to respond to catastrophic natural disasters;

(3) billions of dollars in taxpayer-supported government assistance will be paid to rebuild following catastrophic natural disasters;

(4) millions of persons in the United States do not have adequate insurance coverage to protect their property from catastrophic natural disasters;

(5) the unique risks posed by catastrophic natural disasters make it difficult to provide adequate insurance coverage through existing insurance mechanisms, including—

(A) a low frequency of occurrence;

(B) a high severity of losses;

(C) a high concentration of losses in particular geographic areas; and

(D) a considerable degree of uncertainty associated with estimating expected losses over a projected time period;

(6) in the early 1990's, catastrophic disasters (including Hurricane Andrew and Hurricane Iniki and the Northridge earthquake) have inflicted substantial losses on private insurance companies and those losses have affected the ability to write new coverages in the affected regions and other parts of the United States;

(7) the natural disasters referred to in paragraph (6)—

(A) inflicted substantial losses on State governments and local communities; and

(B) caused severe strains on the budgets of the governments referred to in subparagraph (A);

(8) hazard mitigation can reduce the long-term consequences of natural disasters, especially with respect to those persons who are least capable of helping themselves;

(9) hazard mitigation measures, including the adoption and implementation of appropriate building and fire safety codes, retrofitting of structures, and providing for public and community awareness, have proven effective in reducing deaths, injuries, and property damage caused by catastrophic natural disasters;

(10) hazard mitigation measures are not—

(A) in place in many high-hazard areas; and

(B) adequately enforced where the measures are in place; and

(11) emergency response capability, including fire fighting, emergency medical assistance, and search and rescue personnel, is as important as hazard mitigation in lessening the impact of natural disasters.

SEC. 3. PURPOSE.

The purpose of this Act is—

(1) to enhance access to disaster insurance coverage by improving the capacity of the private insurance industry through—

(A) the expanded availability of private insurance and reinsurance coverage for natural disaster perils;

(B) the establishment of premium rates based on expected losses and risk;

(C) an increased likelihood that the insurance industry continues to provide affordable coverage following a catastrophic natural disaster; and

(D) more effective employment of the insurance industry through the provision of more coverage, that should—

(i) speed rebuilding following a catastrophic natural disaster;

(ii) finance losses from natural disasters, and consequently save funds derived from tax revenues by reducing reliance on disaster assistance from governments; and

(iii) encourage cost-effective hazard mitigation efforts; and

(2) to reduce deaths, injuries, property damage, and business interruptions from natural disasters through a hazard mitigation program that provides for—

(A) the building of safer structures and the upgrading of existing buildings and lifelines;

(B) the enhancement of State and local community emergency management;

(C) the improvement of State and local emergency response capability, including the development of standards and guidelines for staffing, operations, and training;

(D) the forging of a partnership between the Federal Government and the States and local communities that makes the States and local communities ultimately responsible for implementing and enforcing multihazard mitigation measures and emergency management; and

(E) the creation of a self-sustaining funding mechanism to assist States in paying for hazard mitigation efforts.

SEC. 4. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) BUILDING.—The term ''building'' means any structure that is—

(A) fully or partially enclosed; and

(B) used or intended for housing persons or sheltering property.

(2) CATASTROPHE LOSS COSTS.—The term ''catastrophe loss costs'' means loss costs for the perils listed in section 101(e)(1).

(3) COMMERCIAL LOSSES.—

(A) The term ''commercial losses'' means physical damage losses to insured commercial property (other than residential property) and other losses that are the result of earthquakes, volcanic eruptions, tsunamis, or hurricanes for the lines of insurance described in subparagraph (B).

(B) The lines of insurance described in this subparagraph are listed in the most recent fire and casualty annual statement of the National Association of Insurance Commissioners as—

(i) commercial multiple peril;

(ii) workers' compensation;

(iii) allied lines;

(iv) farm owners;

(v) fire;

(vi) reinsurance;

(vii) liability;

(viii) earthquake;

(ix) inland marine; or

(x) ocean marine.

(4) COMMERCIAL PROPERTY.—The term ''commercial property'' means—

(A) nonresidential property that is subject to commercial losses; and

(B) includes any building that is occupied as a condominium, apartment, or cooperative.

(5) CRITICAL FACILITY.—The term ''critical facility'' means any school or structure that is essential to emergency services necessary for recovery after a natural disaster, including a hospital, fire, or police facility, temporary shelter, or emergency operating and preparedness center.

(6) DIRECTOR.—The terms ''Director of the Agency'' and ''Director'' mean the Director of the Federal Emergency Management Agency.

(7) EARTHQUAKE.—The term ''earthquake'' means any shaking or trembling of the crust of the earth that is caused by underground seismic forces.

(8) EMERGENCY RESPONDER.—The term ''emergency responder'' means any fire fighting, police, or other emergency medical personnel who has the authority under applicable law to engage in and provide immediate emergency response services.

(9) FLOOD.—The terms ''flood'' and ''flooding'' mean a general and temporary condition of partial or complete inundation of a normally dry land area that results from—

(A) the overflow of inland or tidal waters; or

(B) the unusual and rapid accumulation of runoff or surface waters from any source.

(10) HAZARD MITIGATION.—The term ''hazard mitigation'' means sustained action to reduce or eliminate long-term risk to people and property from natural disaster hazards and the effects of those hazards.

(11) HURRICANE.—The term ''hurricane''—

(A) means a nonfrontal, warm core, low pressure atmospheric system that is officially declared to be—

(i) a hurricane by the National Hurricane Center or the Central Pacific Hurricane Center; or

(ii) a typhoon by the Joint Typhoon Warning Center; and

(B) includes any associated windstorm events.

(12) LIFELINE.—The term ''lifelines'' means public works and utilities, including transportation facilities and infrastructure, oil and gas pipelines, electrical power and communication facilities, and water supply and sewage treatment facilities.

(13) LOCAL COMMUNITY.—The term ''local community'' means a political subdivision of a State that has a department or similar entity that oversees local zoning and building code compliance.

(14) LOSS COSTS.—The term ‘‘loss costs’’—

(A) means the actuarially based mean annual amount or appropriate range that is sufficient to pay expected insured losses resulting from a particular peril; and

(B) does not include loss adjustment expense, administrative expense, taxes, commissions, risk charge, profits, and contingencies.

(15) MITIGATION FUND.—The term ‘‘Mitigation Fund’’ means the Natural Disaster Hazard Mitigation Fund established under section 202.

(16) PRIVATE INSURER.—The term ‘‘private insurer’’ means any private insurer or private reinsurer, including all related affiliates or subsidiaries under the same ownership or management in a manner consistent with the definition of the term ‘‘affiliated group’’ under section 1504(a) of the Internal Revenue Code of 1986, that is licensed or admitted to write property and casualty insurance or reinsurance within a State.

(17) PUBLIC FACILITY.—The term ‘‘public facility’’ has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(8)).

(18) RATING VARIABLE.—The term ‘‘rating variable’’ means the characteristics of individual risks that affect loss costs, including—

(A) geographic territory;

(B) type of construction;

(C) amount of insurance coverage;

(D) insurance policy deductibles; and

(E) hazard mitigation measures.

(19) RESIDENTIAL PROPERTY.—The term ‘‘residential property’’ means—

(A) any family residential building that houses not less than 1 and not more than 4 families (including mobile or manufactured homes); and

(B) personal property of the occupants of a residential building (including any condominium, cooperative, or apartment building).

(20) RESIDENTIAL PROPERTY LOSSES.—The term ‘‘residential property losses’’ means physical damage losses to insured residential property.

(21) RISK CHARGE.—The term ‘‘risk charge’’ means the component of an insurance rate that reflects the degree of variability of losses around the mean value of the subject of the insurance.

(22) STATE.—The term ‘‘State’’ means each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(23) STATE DEPARTMENT OF INSURANCE.—The term ‘‘State department of insurance’’ means the office of the chief insurance regulatory official of a State (or the equivalent State entity).

(24) STATE INSURANCE POOL.—The term ‘‘State insurance pool’’ means any State-authorized joint underwriting or joint reinsurance association, risk pool, or residual market mechanism that provides insurance or reinsurance coverage against hurricanes, earthquakes, volcanic eruptions, or tsunamis.

(25) TSUNAMI.—The term ‘‘tsunami’’ means an ocean wave generated by underwater disturbances in the earth's crust (that consist primarily of earthquakes and submarine volcanic eruptions).

(26) UNITED STATES.—The term ‘‘United States’’ means, when used in a geographical sense, all of the States (as such term is defined in paragraph (21)).

(27) VOLCANIC ERUPTION.—The term ''volcanic eruption'' means the expulsion, as a result of natural causes, of molten rock, rock fragments, gases, ashes, mud, lava flows, and other natural substances through an opening in the crust of the earth.

(28) WINDSTORM.—The term ''windstorm'' means an atmospheric disturbance that—

(A) is marked by high velocity movements of air, including a tornado; and

(B) is not officially declared to be a hurricane (including a typhoon, as defined in paragraph (10)).

SEC. 5. SEVERABILITY.

If any provision of this Act, or the application of that provision to any person, circumstance, or venue, is held invalid, the remainder of this Act, or the application of that provision to persons, circumstances, or venues other than those as to which it is held invalid, shall not be affected.

TITLE I—NATURAL DISASTER INSURANCE

SEC. 101. NATIONAL COMMISSION ON CATASTROPHE RISK AND INSURANCE LOSS COSTS.

(a) ESTABLISHMENT.—The Secretary of the Treasury (in this title referred to as the ''Secretary'') shall establish within the Department of the Treasury a National Commission on Catastrophe Risk and Insurance Loss Costs (in this section referred to as the ''Commission'') to estimate loss costs from catastrophic natural disasters.

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall meet periodically to participate in public hearings, estimate proposed loss costs, and approve and file loss costs under subsection (e).

(2) PLAN OF OPERATION.—Not later than 180 days after the date on which the Commission is established, the Commission shall develop, and submit to the Secretary for review, a plan of operation that sets forth the specific policies and details of the operation of the Commission that includes all guidelines, criteria, definitions and procedures that the Commission determines to be necessary to carry out the functions of the Commission under this section.

(c) STAFFING.—The Chairperson of the Commission may appoint and terminate such full-time professional and clerical staff, attorneys, examiners, and other experts as may be necessary to enable the Commission to carry out its duties. The staff shall be Federal employees who are subject to the civil service laws under title 5, United States Code.

(d) MEMBERS.—

(1) APPOINTMENT.—

(A) INITIAL APPOINTMENT.—The Commission shall be composed of 13 members appointed by the Secretary not later than 90 days after the date of enactment of this Act.

(B) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment. The Secretary shall ensure that the composition of the Commission meets at all times the qualifications described in paragraph (2).

(2) QUALIFICATIONS.—

(A) IN GENERAL.—

(i) CITIZENSHIP AND EXPERTISE.—Each member appointed to the Commission shall be—

(I) a citizen of the United States; and

(II) recognized as qualified in a field related to natural disaster hazard mitigation and insurance.

(ii) TREATMENT OF NON-FEDERAL MEMBERS.—Each member who is not otherwise employed by the Federal Government shall be deemed to be special government employees, as defined in section 202 of title 18, United States Code, for purposes of sections 201, 202, 203, 205, and 208 of such title.

(B) SPECIFIC DISCIPLINES.—The members appointed to the Commission described in paragraph (1) shall consist of the following:

(i) 1 structural engineer, who shall not otherwise be an employee of the Federal Government, or an employee of a State government or a private insurer.

(ii) 1 meteorologist, who shall not otherwise be an employee of the Federal Government, or an employee of a State government or a private insurer.

(iii) 1 seismologist, who shall not otherwise be an employee of the Federal Government or an employee of a State government or a private insurer.

(iv) 2 professional actuaries who have previous experience in developing or setting actuarially sound property and casualty rates who shall not otherwise be employed by the Federal Government, or employed by a State government or private insurer.

(v) 2 members who each serve as an elected regulator of a department of insurance of a State.

(vi) 1 member who is otherwise employed by the Department of the Treasury.

(vii) 1 member who is an employee of the Federal Emergency Management Agency.

(viii) 1 member who is a private insurer.

(ix) 1 representative from the consumers of property and casualty insurance.

(x) 1 representative who is a real estate agent.

(x) 1 representative who is a professional builder.

(C) EFFECTS OF LOSS OF QUALIFICATION.—If any member appointed under paragraph (1) ceases to meet the applicable qualifications under this paragraph, the term of that member shall terminate, and the Secretary shall fill the vacancy immediately upon that termination.

(3) CHAIRPERSON.—The Secretary shall designate a chairperson of the Commission from among members appointed to the Commission.

(4) TERMS OF SERVICE.—

(A) IN GENERAL.—The members appointed under paragraph (1) shall serve staggered 6-year terms, as determined by the Secretary at the time of appointment.

(B) REAPPOINTMENT.—

(i) IN GENERAL.—Subject to paragraph (2), upon the termination of the term of a member, the Secretary may appoint that member to serve for an additional term.

(ii) LIMITATION.—No member may serve as a member of the Commission for an aggregate period longer than 12 years.

(5) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(6) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while

away from their homes or regular places of business in the performance of services for the Commission.

(e) FUNCTIONS.—

(1) CATASTROPHE LOSS COST ESTIMATES.—

(A) IN GENERAL.—In accordance with the process described under subsection (f), the Commission shall make an initial estimate of catastrophe loss costs, and update that estimate at not less frequently than once every 3 years (or more frequently as appropriate).

(B) RATING VARIABLES.—In making an estimate under this paragraph, the Commission shall use appropriate rating variables for the base insurance policy commonly used in each State or relevant jurisdiction, as determined by the Commission, for the perils of earthquakes, hurricanes, tsunamis, and volcanic eruptions for—

(i) insured residential property exposures; and

(ii) all class-rated insured commercial property exposures and, if practical, other insured commercial property exposures.

(2) FILE LOSS COSTS.—As soon as is practicable, but not later than 26 months after the date

of enactment of this Act, and at least every 3 years thereafter, the Commission shall file the estimates of catastrophe loss costs developed under this subsection for the perils described in paragraph (1) with—

(A) each State department of insurance; and

(B) the Secretary.

(3) DATA COLLECTION.—

(A) SOURCES OF DATA.—

(i) IN GENERAL.—The Commission may request from the entities under clause (ii) such data or information as may be necessary to carry out the purposes of this section.

(ii) ENTITIES.—An entity from which the Commission may procure information under this subparagraph is—

(I) a statistical agent or organization designated by a State department of insurance or a designated statistical agent of a State department of insurance to gather and compile insurance statistical experience; or

(II) a private insurer if the private insurer provides the data or information on a voluntary basis.

(B) CONFIDENTIAL.—Any data that is company-specific for a private insurer and that is reported to the Commission, either directly through a State department of insurance or through a designated statistical agent of a State department of insurance—

(i) shall be presumed to be confidential, trade secret information; and

(ii) may not be disclosed to any other party.

(C) RESTRICTIONS ON USE.—The Commission may only use the data and information obtained under this paragraph to carry out the duties of the Commission under this section. The Commission may not—

(i) make confidential information described in subparagraph (B) available to any Federal agency or State department or agency for any purpose; and

(ii) use confidential information described in subparagraph (B) for any purpose other than a purpose specified in this paragraph.

(4) CONDUCT OF SPECIAL STUDIES.—The Commission shall conduct special studies of catastrophe insurance issues in order to develop estimates of catastrophe loss costs in accordance with paragraph (1). The studies conducted under this paragraph shall include an investigation of the following issues:

(A) The potential variability in mean loss costs and probable maximum losses in each State.

(B) The potential effect of various hazard mitigation strategies on loss costs.

(C) The potential effect of demographic changes, such as population trends, on loss costs.

(D) The potential effect of climatic cycles on loss costs.

(E) The uninsured catastrophe losses that are likely to occur, including losses to public facilities and lifelines.

(f) PROCESS FOR DEVELOPMENT OF ESTIMATES OF CATASTROPHE LOSS COSTS.—The Commission shall develop the estimates of catastrophe loss costs under subsection (e)(1) in accordance with the following process:

(1) INVESTIGATION.—In consultation with the experts referred to in subsection (g), the Commission shall conduct an investigation to determine the appropriate range of loss costs estimates. In conducting that investigation the Commission shall hold public hearings.

(2) PROPOSED LOSS COSTS.—Based on the investigation under paragraph (1), the Commission shall propose initial estimates of catastrophe loss costs not later than 18 months after the date of enactment of this Act. In developing proposed estimates of catastrophe loss costs and any updates of such estimates under this section, the Commission shall be subject to the public comment and hearings requirements under subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

(3) MODIFICATION OF PROPOSED LOSS COSTS.—Upon receipt of public comments solicited by the Commission in accordance with this section,

the Commission may modify a proposed estimate referred to in paragraph (2) to take into account those comments.

(4) FINALIZATION OF INITIAL ESTIMATES.—The initial estimates of catastrophe loss costs developed by the Commission under this subsection shall become final not later than 22 months after the date of enactment of this Act. Any updates of catastrophe loss costs estimates shall become final upon the completion of the process described in paragraphs (1) through (3) for such updates.

(5) APPEAL.—

(A) RIGHT.—Not later than 30 days after the finalization of an estimate of catastrophe loss costs under paragraph (4), any individual, organization, private insurer, State insurance pool, or State department of insurance adversely affected or aggrieved by such estimate may appeal the estimate in writing to the Commission.

(B) PROCESS.—

(i) IN GENERAL.—The Commission shall hear any appeal brought under subparagraph (A) on the record or in a public proceeding not later than 30 days after the appeal is submitted.

(ii) DETERMINATION BY COMMISSION.—Not later than 90 days after the date on which an appeal is submitted under subparagraph (A), the Commission shall make a determination on the appeal, and make any necessary changes to the estimate of catastrophe loss costs involved.

(6) METHODOLOGIES.—At the same time as the Commission issues proposed estimates of catastrophe loss costs under paragraph (2) and the final estimates of catastrophe loss costs under paragraph (4) the Commission shall issue a report prepared by the Commission concerning the methodologies and assumptions used in developing the estimates of catastrophe loss costs.

(7) JUDICIAL REVIEW.—Except as provided in subsection (j), any action taken, or determination made, by the Commission in connection with developing or filing catastrophe loss costs estimates under this section shall not be subject to judicial review.

(g) CONSULTATION.—The Commission shall consult experts in the following fields, or employed by the following entities, to assist in the investigation of natural disaster catastrophe loss costs estimates:

(1) The property and casualty industry.

(2) Natural disaster catastrophe modeling organizations.

(3) Consumers of property and casualty insurance.

(4)(A) Scientific agencies of the Federal Government, such as the United States Geological Survey of the Department of the Interior and the National Oceanic and Atmospheric Administration, the National Hurricane Center, and the Bureau of the Census of the Department of Commerce; and

(B) The National Academy of Sciences.

(5) State departments of insurance.

(6) Other appropriate experts in the area of natural disaster catastrophe loss costs.

(h) USE OF ESTIMATES OF CATASTROPHE LOSS COSTS.—

(1) PRIVATE INSURERS.—

(A) ELECTION.—For the natural disaster perils listed in subsection (e)(1), a private insurer may elect to cite the final estimates of catastrophe loss costs determined under subsection (f) in the rate filings of the private insurer to the appropriate State department of insurance.

(B) DISAPPROVAL.—If a private insurer chooses to cite the loss costs estimates under subparagraph (A), the appropriate State department of insurance—

(i) shall consider those loss costs estimates as authoritative; and

(ii) may not disapprove the catastrophe loss costs component of the property insurance rate filing submitted by the private insurer for the perils described in subsection (e)(1) unless the chief insurance regulatory official of the State finds, not later than 30 days after the date the rate filing is submitted by the private insurer, that the estimates of catastrophe loss costs are excessive, inadequate, or unfairly discriminatory.

(C) DEVIATIONS.—Nothing in this paragraph shall preclude a State department of insurance from evaluating, in a manner consistent with applicable State law, rate filings submitted by a private insurer electing to cite the loss costs estimates under subparagraph (A) if the private insurer deviates from the rating variables or base insurance policy used under subsection (e)(1) by the Commission in estimating the loss costs.

(2) CONSIDERATION OF ESTIMATES OF CATASTROPHE LOSS COSTS BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall, to the maximum extent practicable, consider estimates of catastrophe loss costs filed with the Secretary under subsection (e)(2) in developing the reserve prices for the Federal excess-of-loss reinsurance contracts under section 102.

(3) STATE INSURANCE POOLS.—In order to be eligible to purchase the Federal excess-of-loss reinsurance contracts under section 102 directly from the Treasury Department or through a private corporation described in section 103, a State insurance pool that provides direct insurance shall, to the maximum extent practicable, consider the estimates of

catastrophe loss costs as the minimum loss costs to be filed with the State departments of insurance under subsection (e)(2) in developing the rates for property insurance coverage they provide.

(i) STANDARDS.—The estimates of catastrophe loss costs developed under this section shall—

(1) reflect actuarial principles of basing rates on the risk to insured property from natural disaster perils by—

(A) minimizing cost-subsidization of the loss costs between geographic risk territories and different construction types for buildings; and

(B) ensuring that the estimated catastrophe loss costs are sufficient to cover expected losses; and

(2) produce insurance rates that are not excessive, inadequate, or unfairly discriminatory.

(j) JUDICIAL REVIEW.—If the chief insurance regulatory official of a State disapproves final estimates for catastrophe loss costs under subsection (h)(1)(B), the parties described in subsection (f)(5)(A) may seek judicial review in the district court of the United States with appropriate jurisdiction. The scope of review shall be determined in accordance with chapter 7 of title 5, United States Code.

(k) CATASTROPHE LOSS COSTS MODELS.—

(1) CERTIFICATION.—If after following the processes of subsections (f)(1) and (g), the Commission concludes that developing estimates of catastrophe loss costs according to subsection (e)(1) is impractical, the Commission may review and certify, if appropriate, private commercial natural disaster hazard models intended to be used to make estimates of catastrophe loss costs.

(2) USE.—

(A) ELECTION.—Subject to the applicable conditions under subsection (h)(1), a private insurer may elect to cite the catastrophe loss costs models certified by the Commission under paragraph (1) in rate filings to the State department of insurance for the natural disaster perils described in subsection (e)(1).

(B) RATES.—In any case in which a private insurer chooses to cite the catastrophe loss costs models under subparagraph (A), the chief insurance regulatory official of the State shall approve or disapprove the rate filing in accordance with subparagraphs (B) and (C) of subsection (h)(1).

(3) APPEAL.—

(A) IN GENERAL.—A certification of models for estimating catastrophe loss costs under paragraph (1) shall be subject to appeal in the same manner as is provided for an appeal of estimates of catastrophe loss costs under subsection (f)(5).

(B) JUDICIAL REVIEW.—A certification of catastrophe loss cost models under paragraph (1) shall be subject to judicial review in the same manner as is provided for a review of estimates of loss costs under subsection (j).

(4) REVIEW.—The Commission shall make available for public review the models for estimating catastrophe loss costs certified under paragraph (1).

(l) OVERSIGHT.—The Secretary shall oversee, and may audit the activities of the Commission to ensure the Commission carries out its duties in a manner consistent with this section. The Secretary shall periodically submit to the Congress a written report on the performance of the Commission in carrying out this section.

(m) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of the Treasury—

(A) $5,000,000 for the initial expenses in establishing the Commission, and the initial activities of the Commission, as determined by the Secretary of the Treasury; and

(B) such additional sums as may be necessary to carry out subsequent activities of the Commission.

(2) OFFSET.—Sums authorized to be appropriated under paragraph (1)(B) shall be offset, to the maximum extent practicable, through a surcharge assessed by the Secretary on the catastrophic excess-of-loss contracts described in section 102.

(3) TREATMENT OF SPENDING AUTHORITY.—Any spending authority authorized by this section shall be effective only to such extent, and in such amounts, as are provided in appropriation Acts.

(o) INTENT OF CONGRESS.—It is the intent of Congress that—

(1) the provisions of this section relate specifically to the business of insurance; and

(2) except as provided in subsection (h)(1)(B), all activities prescribed by this section applicable to the business of insurance shall be regulated by State law.

SEC. 102. CATASTROPHIC EXCESS-OF-LOSS CONTRACTS.

(a) GENERAL AUTHORITY.—

(1) CONTRACTS DEFINED.—As used in this section, the term ''contract'' means a Federal excess-of-loss reinsurance contract issued pursuant to this section.

(2) AUCTIONING OF CONTRACTS.—The Secretary shall carry out a program to auction Federal excess-of-loss reinsurance contracts to eligible purchasers for the purpose of increasing the capacity of insurance coverage against the catastrophic natural disaster perils listed in subsection (d).

(b) QUALIFIED PURCHASERS.—Any of the following entities shall be qualified to purchase contracts under this section, if the entity provides insurance or reinsurance for property located within a State:

(1) A private insurer.

(2) A State insurance pool.

(c) QUALIFIED LINES OF COVERAGE.—

(1) MANDATORY LINES.—The contracts auctioned by the Secretary under this section shall provide insurance coverage against the following losses:

(A) Residential property losses.

(B) Commercial losses, except for workers' compensation and liability.

(2) DISCRETIONARY INCLUSION.—The Secretary is authorized to include additional lines of insurance that are not listed under paragraph (1) as qualified property and casualty lines of coverage for the contracts auctioned by the Secretary under this section.

(d) COVERED PERILS.—The contracts auctioned by the Secretary under this section shall cover losses that are proximately caused by the following natural disaster perils (as defined by the Secretary):

(1) Earthquakes.

(2) Volcanic eruptions.

(3) Tsunamis.

(4) Hurricanes.

(e) CONTRACT TERMS AND CONDITIONS.—The Secretary shall include the following terms and conditions in the contracts auctioned under this section:

(1) MATURITY.—The maturity period for each such contract shall not exceed 1 year.

(2) MULTIPLE EVENTS.—The Secretary may offer contracts that cover more than 1 natural disaster occurring during a 12-month period, on the condition that disasters occurring after the first event may be subject to a different threshold than the threshold under paragraph (5).

(3) TRANSFERABILITY.—Each such contract shall at all times be fully transferable and divisible.

(4) PAYMENT CONDITION.—Each such contract shall only authorize payments to a qualified purchaser described in subsection (b) that actually sustains natural disaster losses. No qualified purchaser may exercise a cumulated total of contracts that exceed actual losses sustained by such entity.

(5) THRESHOLD OF COVERAGE.—The holder of a contract auctioned by the Secretary under this section may receive a payment for losses covered under the contract if, under a process specified in the contract, the Secretary determines that the insurance industry within the United States will, as a result of a hurricane, earthquake, volcanic eruption, or tsunami event involved, incur losses covered by one or more lines of insurance under subsection (c) in an aggregate amount greater than $10,000,000,000.

(6) PAYOUT PERIOD.—Each contract auctioned by the Secretary under this subsection shall limit payments for natural disaster claims paid by the holder of the contract for a 3-year period, beginning on the date of the natural disaster event that meets the threshold specified in paragraph (5).

(7) PAYOUT FUNCTION.—If the Secretary determines that the threshold specified in paragraph (5) will be met, the Secretary shall pay out claims to contract holders at a ratio determined by the Secretary.

(f) SALE OF CONTRACTS.—

(1) ANNUAL AUCTION.—The Secretary shall auction contracts under this section not less frequently than annually.

(2) TYPES OF CONTRACTS.—

(A) CATEGORIES OF PERILS.—The Secretary shall offer contracts for sale that cover the following categories of perils:

(i) Earthquakes, volcanic eruptions, and tsunamis.

(ii) Hurricanes.

(iii) A combination of the categories under clauses (i) and (ii).

(B) MULTISTATE CONTRACTS.—The Secretary may offer contracts for sale covering losses sustained in one or more States or all States.

(3) RESERVE PRICE.—In auctioning a contract under this section, the Secretary shall set a reserve price as the lowest base price for that contract. The reserve price shall be determined on the basis of the following:

(A) A risk-based price, that shall—

(i) reflect the anticipated payouts of the contract; and

(ii) be consistent, to the maximum extent practicable, with the loss costs estimates as provided in section 101(h)(2).

(B) A cost-of-capital adjustment that shall reflect the marginal difference in the cost to the Federal Government for borrowing money, as compared to the cost to private insurers for borrowing money in the private marketplace.

(C) Adjustments for—

(i) a surcharge for the operation of the National Commission on Catastrophe Risk and Insurance Loss Costs to offset costs of the operation of the Commission after the initial funds authorized to be appropriated under section 101(n)(1) have been expended;

(ii) the anticipated contribution to the Mitigation Fund as provided in section 202(b); and

(iii) the administrative expenses incurred by the Secretary in carrying out this section.

(4) LIMITS ON NUMBER OF CONTRACTS.—

(A) MINIMUM NUMBER OF CONTRACTS.—

(i) IN GENERAL.—Except as provided under clause (ii), the Secretary shall auction annually not less than 25 percent of the maximum number of contracts that the Secretary may make available under this section.

(ii) EXCEPTION.—Clause (i) shall apply subject to the availability of qualified purchasers that are prepared to pay not less than the price described in paragraph (3) for a contract.

(B) ADDITIONAL CONTRACTS.—In addition to auctioning the minimum amount of contracts under subparagraph (A), the Secretary shall auction additional contracts in relation to, as determined by the Secretary, any bids received during the auction for the immediately preceding fiscal year for the contracts that exceed the reserve price described in paragraph (3).

(C) MAXIMUM NUMBER OF CONTRACTS.—The total payout for all contracts auctioned on the basis of the payout function determined by the Secretary under subsection (e)(7) shall not exceed $25,000,000,000.

(g) INFLATION ADJUSTMENT.—Beginning with calendar year 1998, the Secretary may adjust the dollar amounts specified in subsections (e)(5) and (f)(4)(C) by the applicable percentage change in the value of property exposed to the natural disaster perils described in subsection (d).

(h) TRUST FUND.—

(1) ESTABLISHMENT.—There is established within the Treasury of the United States a trust fund to be known as the Federal Excess-of-Loss Reinsurance Fund (hereafter in this section referred to as the ‘‘Trust Fund’’) consisting of such amounts as are transferred to this fund under paragraph (2) and any interest earned on investment accounts in the fund under paragraph (3)(A).

(2) TRANSFER OF PROCEEDS OF AUCTION.—The Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the amounts received from an auction conducted under section 102.

(3) INVESTMENT OF TRUST FUND.—

(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) Credits to trust fund.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(4) Obligations from trust fund.—The Secretary is hereafter authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for—

(A) payments of claims to qualified holders of contracts issued under this section that submit claims pursuant to this section (as the sole source of those payments);

(B) making payments for the surcharge on the operation of the National Commission on Catastrophe Risk and Insurance Loss Costs as described in section 101(n)(2);

(C) making payments for the anticipated contribution of the Federal Government to the Mitigation Fund under section 202(b); and

(D) making payments for administrative expenses incurred by this section.

(i) Authority To Borrow Funds.—

(1) IN GENERAL.—The Secretary of the Treasury may borrow from the Treasury of the United States such funds as may be necessary to cover any shortfall sustained by the Trust Fund in making payments described in subsection (h)(4).

(2) RATE.—The rate of interest charged in connection with any loan made pursuant to this subsection shall be determined by the Secretary, taking into account the then current market yields on outstanding marketable obligations of the United States of comparable maturities.

(3) PUBLIC DEBT.—All loans and repayments made under this subsection shall be treated as public debt transactions of the United States in a manner consistent with chapter 31 of title 31, United States Code.

SEC. 103. PRIVATE DISASTER INSURANCE CORPORATION.

(a) QUALIFICATIONS.—In order to qualify for the special status provision described in subsection (c), a corporation shall—

(1) be a private corporation;

(2) operate for the sole purpose of providing excess reinsurance coverage for catastrophic natural disasters in accordance with the requirements specified in subsection (b); and

(3) be licensed by a State as an insurer to provide excess reinsurance coverage as described in subsection (b).

(b) EXCESS REINSURANCE COVERAGE.—In order to qualify for the special status provision of subsection (c), the excess reinsurance coverage provided by a corporation shall—

(1) be provided to—

(A) private insurers; and

(B) State insurance pools,

that meet minimum criteria and financial viability standards established by the corporation;

(2) only provide reinsurance for any amounts that exceed the amount of reinsurance available in the private market for—

(A) residential property losses; and

(B) commercial losses;

(3) cover losses proximately caused by—

(A) earthquakes;

(B) volcanic eruptions;

(C) tsunamis; and

(D) hurricanes;

(4) be provided at rates established, and adjusted if necessary, by the corporation, based on—

(A) generally accepted actuarial principles; and

(B) the catastrophe loss costs estimates submitted to the States under section 101(e)(2);

(5) include, at a minimum—

(A) eligibility requirements; and

(B) limits on the amount of coverage available; and

(6) include terms for the payment of claims based on the losses sustained by the purchaser of the excess reinsurance coverage.

(c) SPECIAL STATUS PROVISION.—The operations under this section of a corporation that meets the qualifications of subsection (a) shall not be subject to liability under Federal antitrust laws or State antitrust laws, if the actions of the corporation and the board of directors or similar governing body of the corporation in providing excess reinsurance coverage are consistent with the requirements under subsection (b).

(d) INTENT OF CONGRESS.—It is the intent of Congress that the provisions of this section relate specifically to the business of insurance.

SEC. 104. STUDY ON TAX TREATMENT OF INSURER CATASTROPHIC RESERVES.

(a) JOINT STUDY.—The Comptroller General of the United States, in cooperation with the Secretary of the Treasury, and the Secretary of Commerce shall conduct a study to evaluate the public policy issues described in subsection (b) associated with conferring favorable Federal tax treatment to insurance reserves set aside by private insurers for future catastrophic natural disasters.

(b) FACTORS TO BE STUDIED.—The study conducted under this section shall evaluate the likelihood and magnitude of the following public policy objectives with respect to the implementation of the tax treatment proposed under subsection (a):

(1) The increased financial capacity of private insurers to respond to future natural disasters.

(2) The enhanced financial ability of private insurers to continue providing property coverage following catastrophic natural disasters.

(3) The overall benefit to the competitiveness of United States business and private insurers in the worldwide economy.

(4) The short- and long-term revenue impact to the United States Treasury.

(c) CONSULTATION.—The Comptroller General of the United States, the Secretary of the Treasury, and the Secretary of Commerce shall consult with recognized experts in carrying out the study under this section. The experts shall include representatives from State departments of insurance, private insurers, insurance agents, economists, natural disaster risk modeling experts, consumers of property and casualty insurance, and other experts that the Comptroller General of the United States, in cooperation with the Secretary of the Treasury, and the Secretary of Commerce, determine to be appropriate.

(d) REPORT TO CONGRESS.—Not later than 9 months after the date of this Act, the Comptroller General of the United States, in cooperation with the Secretary of the Treasury and the Secretary of Commerce, shall submit to the Congress a report that contains—

(1) the findings of the study conducted under this section; and

(2) any recommendations that the Comptroller General, in consultation with the Secretary of the Treasury and the Secretary of Commerce, consider to be appropriate.

SEC. 105. FLOOD INSURANCE.

(a) STUDY.—The Director shall enter into an arrangement with the National Academy of Sciences (or if the National Academy of Sciences is not available, a similar entity) to conduct a study on the operation of the national flood insurance program managed by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.). The study shall evaluate and provide specific recommendations concerning—

(1) necessary and appropriate measures, including additional sanctions, to increase the purchase of Federal flood insurance; and

(2) the advisability and feasibility of privatizing the entire national flood insurance program managed by the Director.

(b) CONTENT OF STUDY.—

(1) IN GENERAL.—The study described in subsection (a) shall be performed by a panel of recognized experts appointed by the head of the National Academy of Sciences (or similar entity).

(2) EXPERTS.—The experts appointed to the panel under paragraph (1) shall include representatives of—

(A) building constructors;

(B) real estate interests;

(C) lending institutions;

(D) private insurers;

(E) the organizations that establish model building codes;

(F) local government zoning and land use planning entities; and

(G) other experts that the head of the National Academy of Sciences (or similar entity) determines to be relevant.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the head of the National Academy of Sciences (or similar entity) shall submit to the Director a report that contains the results of the study conducted under this section, including the recommendations described in paragraphs (1) and (2) of subsection (a). The Director shall submit the report to Congress.

SEC. 106. INSURANCE PRICING INCENTIVES.

Each State department of insurance shall take into account natural disaster hazard mitigation measures, such as the strategic mitigation plan processes described in section 201(b)(2), in setting rates and deductibles for property insurance provided in that State.

SEC. 107. STUDY OF AVAILABILITY AND AFFORDABILITY OF CATASTROPHE INSURANCE.

(a) JOINT STUDY.—The Director, the Secretary of the Treasury, and the Secretary of Commerce shall conduct a study to evaluate—

(1) the availability and affordability of catastrophe insurance for natural hazards to private individuals and businesses and State and local governments; and

(2) the effect that this Act has on the availability and affordability of such insurance to such persons and entities.

(b) FACTORS TO BE STUDIED.—The study described in subsection (a) shall include—

(1) an examination of the extent to which private insurers have maintained, increased, or decreased the marketing of catastrophe insurance for individuals and businesses;

(2) an examination of the extent to which States have responded to market availability problems by the creation of State pools or other mechanisms; and

(3) recommended legislation that includes amendments to this Act to encourage private insurers to expand voluntary marketing of catastrophe insurance.

(c) REPORT TO CONGRESS.—Not later than 36 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the

Congress a report containing the results of the study conducted under subsection (a), including any recommendations that the Director, the Secretary of the Treasury, and the Secretary of Commerce consider to be appropriate.

TITLE II—MULTIHAZARD MITIGATION PROGRAM

SEC. 201. DEVELOPMENT OF STATE MITIGATION PLANS.

(a) GENERAL AUTHORITY.—Not later than the date specified in subsection (d)(1), each State shall either—

(1) develop, in consultation with responsible elected local officials with appropriate jurisdiction, or the official designated representatives of appropriate State associations of those responsible elected local officials, and the public, a statewide strategic mitigation plan to reduce hazards of future natural disasters, such as hurricanes, windstorms, earthquakes, volcanic eruptions, and tsunamis; or

(2) designate, in consultation with responsible elected local officials with appropriate jurisdiction, or the official designated representatives of appropriate State associations of those responsible elected local officials, and the public, a mitigation plan that is in effect at the time of the designation that includes the elements described in subsection (b) as

the applicable natural hazards statewide strategic mitigation plan.

(b) ELEMENTS OF STATE MITIGATION PLANS.—

(1) IN GENERAL.—Each statewide strategic mitigation plan of a State under subsection (a) shall be based on broad national criteria and priorities established by the Director.

(2) SPECIFIC PROCESSES.—Each statewide strategic mitigation plan under subsection (a) shall include, at a minimum, a process for—

(A) ensuring that structures in hazard-prone areas are built with hazard-mitigation techniques, by—

(i) working with appropriate governmental jurisdictions to promote adoption and enforcement of the hazard-mitigation portions of technical construction standards and building and safety codes that are in effect; and

(ii) making available the necessary funding, personnel, and professional training to provide for the adequate enforcement of the construction standards and codes referred to in clause (i);

(B) improving the capabilities for emergency response to natural disasters, including capabilities for firefighting, search and rescue, and the provision of shelters, communications, and medical relief;

(C) developing standards and guidelines for the regular training of emergency responders to minimize the effects of natural disasters;

(D) achieving enforcement of local community land use ordinances;

(E) addressing further development in high-risk, disaster-prone areas and the impact of such development on public safety and the environment; and

(F) identifying and prioritizing essential critical facilities, lifelines, and public facilities for cost-effective retrofitting that is based on the availability of resources.

(3) DEADLINE FOR IMPLEMENTATION.—Each State shall implement the processes described in paragraph (2) by not later than the date specified in subsection (d)(2).

(c) APPROVAL OF PLAN.—The Director shall review each statewide strategic mitigation plan submitted under subsection (d)(1). Upon the completion of the review of a plan under this subsection, the Director shall approve the plan if the Director determines that the plan meets the requirements of subsection (b).

(d) DEADLINES.—

(1) SUBMISSION OF MITIGATION PLANS TO FEMA.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the chief executive officer of each State shall submit to the Director a statewide strategic mitigation plan for that State developed pursuant to this section.

(B) NONCOMPLIANCE.—If, under this paragraph, a chief executive officer—

(i) submits a statewide strategic mitigation plan that does not meet the requirements of this section; or

(ii) fails to submit the plan by the date specified in this paragraph,

the State of that chief executive officer shall be considered to be in noncompliance with the requirements of this paragraph.

(2) IMPLEMENTATION OF MITIGATION PLANS.—

(A) IN GENERAL.—Not later than 2 years after the Director approves a statewide strategic mitigation plan pursuant to subsection (c), the chief executive officer of the State involved shall certify to the Director whether the State is implementing the plan, including each element of the plan described in subsection (b) in accordance with the requirements of this section.

(B) NONCOMPLIANCE.—If the chief executive officer of a State—

(i) certifies under this paragraph that the State has not implemented an element of the statewide strategic management plan under subsection (b); or

(ii) fails to make a certification by the date specified in this paragraph,

the State shall be considered to be in noncompliance with the requirements of this paragraph.

(3) UPDATING OF MITIGATION PLANS.—

(A) IN GENERAL.—Not later than 3 years after the Director approves a statewide strategic mitigation plan pursuant to subsection (c), and not less frequently than every 3 years thereafter, the chief executive officer of each State shall submit a certification to the Director that indicates whether the State has reviewed and updated, as appropriate, the statewide strategic mitigation plan to reflect the most recent developments in the processes required to be included in the plan under subsection (b).

(B) NONCOMPLIANCE.—If the chief executive officer of a State—

(i) certifies under this paragraph that the statewide strategic mitigation plan has not been updated in accordance with subparagraph (A); or

(ii) fails to make a certification by the applicable date specified in this paragraph,

the State shall be considered to be in noncompliance with the requirements of this paragraph.

(e) NOTIFICATION AND OPPORTUNITY TO CURE.—

(1) IN GENERAL.—Upon making a determination under subsection (d) that a State is in noncompliance, the Director shall notify the State in writing of the noncompliance.

(2) REDUCTION IN CERTAIN ASSISTANCE.—If a State does not take corrective action within the 180-day period beginning on the date that the State receives notification under paragraph (1), the State shall be denied hazard mitigation funds as specified in subsection (f) until such date as the Director determines that the State has taken the necessary corrective action.

(f) DENIAL OF MITIGATION FUNDS.—During the applicable period specified in subsection (e)(2), a State that fails to meet an applicable deadline described in subsection (d) shall not be eligible to receive funds from the Natural Disaster Hazard Mitigation Fund established under section 202.

SEC. 202. NATURAL DISASTER HAZARD MITIGATION FUND.

(a) ESTABLISHMENT.—There is established within the Treasury of the United States a trust fund to be known as the Natural Disaster Hazard Mitigation Fund, consisting of such amounts as may be transferred or credited to the Mitigation Fund, as provided in subsection (c).

(b) MITIGATION SET-ASIDE.—The Secretary of the Treasury shall reserve a portion, not to exceed 5 percent, of the proceeds of the sale of the Federal excess-of-loss reinsurance contracts as described in section 102 for transfer to the Mitigation Fund.

(c) DEPOSITS.—

(1) IN GENERAL.—The Secretary of the Treasury shall credit on an annual basis to the Mitigation Fund amounts—

(A) reserved under subsection (b);

(B) transferred to the Secretary under paragraph (2); or

(C) appropriated under the authorization under section 205(b).

(2) TRANSFER OF CERTAIN UNEXPENDED AND UNOBLIGATED FUNDS.—The Director shall transfer to the Secretary of the Treasury any funds made available by appropriations to the Director under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) that have not been obligated or expended by the Director during a 2-year period beginning on the date on which the funds are initially made available to the Director.

(d) FUNDS TO STATES.—

(1) AUTHORITY.—On the first day of the first full fiscal year beginning after the date of enactment of this Act, and on the first day of every fiscal year thereafter, the Director shall allocate, to the extent

provided in appropriations Acts, to the States (except for any State that is denied funds under section 201(f)) all available amounts in the Mitigation Fund.

(2) FORMULA.—

(A) IN GENERAL.—The Director of the Agency shall allocate amounts from the Mitigation Fund to a State based on a pro rata formula of the catastrophe loss costs filed for that State under section 101(e)(2).

(B) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Director shall issue final Federal regulations describing the pro rata formula described in subparagraph (A).

(e) USE.—

(1) IN GENERAL.—The amounts received by States from the Mitigation Fund shall be used to assist natural disaster hazard mitigation activities. The assistance provided under this paragraph may include assistance for—

(A) training of emergency responders and building code enforcers;

(B) State revolving loan funds, if established, to undertake financing, including the leveraging of funds for various hazard mitigation activities;

(C) the adoption and enforcement of those portions of established technical construction standards and building and safety codes that relate to hazard mitigation;

(D) low-income individuals and families to assist in paying for the undertaking of hazard mitigation measures;

(E) the dissemination of cost-effective technologies—

(i) to prevent or substantially reduce damage caused by natural disasters; and

(ii) for the establishment of geographically dispersed and duly-incorporated natural disaster damage prevention and mitigation Centers for Protection Against Natural Disasters to carry out the dissemination of those technologies;

(F) addressing further development in high-risk, disaster-prone areas and the impact of such development; and

(G) prenatural disaster hazard mitigation, including retrofitting critical facilities, lifelines, and public facilities.

(2) PRIORITY.—Each State that receives an allotment under subsection (d) shall give priority in using the amounts received from the Mitigation Fund to fund hazard mitigation activities necessary to bring the State into compliance with the statewide strategic mitigation plan developed by the State under section 201, including the elements under section 201(b).

(f) LOCAL COMMUNITIES.—As a condition to receiving an initial allotment under subsection (d), each statewide strategic mitigation plan shall be—

(1) developed or designated in consultation with the parties described in section 201(a); and

(2) based on the criteria and priorities described in section 201(b)(1).

(g) STATE PERFORMANCE.—

(1) EVALUATION.—The Director shall evaluate not later than 3 years after approving a statewide strategic management plan under section 201 and not less frequently than every 3 years thereafter, the progress of each State with respect to the implementation of a statewide strategic mitigation plan under section 201, including the implementation of the processes under section 201(b).

(2) ALLOTMENTS.—Allotments made under subsection (d) from the Mitigation Fund shall be conditioned on a satisfactory evaluation under paragraph (1).

(h) AUDITS.—The Director shall periodically conduct audits to ensure that States and local communities are using the funds from the allocations made under subsection (d) to support the hazard mitigation activities described in this section and section 101.

SEC. 203. PUBLIC INFRASTRUCTURE RETROFITTING.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to identify all Federal programs that provide assistance for public facilities and lifelines. The study shall determine which of such programs include or could include as an eligible use of Federal assistance the retrofitting or strengthening of the public facilities and lifelines to minimize damage from future natural disasters.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the results of the study described in subsection (a), including the determinations on retrofitting, shall be transmitted by the Director of the Agency to Congress.

SEC. 204. WILDLAND FIRES.

(a) STUDY.—The Secretary of Agriculture, in cooperation with the Secretary of the Interior, shall enter into an agreement with the interagency National Wildfire Coordinating Group to—

(1) conduct a study of the threat posed by wildfires; and

(2) issue a report on the findings of the study that includes recommendations on controlling that threat.

(b) SCOPE OF STUDY.—In conducting the study under this section, the National Wildfire Coordinating Group shall evaluate, and make recommendations on, the following issues:

(1) The critical wildfire concerns in the United States, including wildfires in urban areas that expand into wildland.

(2) Suggested approaches to achieve more effective and efficient responses to catastrophic wildfires.

(3) The effects of downsizing of Federal agencies on fire emergency capabilities and experience.

(4) Funding mechanisms to address catastrophic wildfires.

(5) Suggested approaches to reduce hazardous fuel loading and other mitigation measures in wildland and urban areas that abut wildlands.

(6) Suggested approaches to improve the coordination of fire prevention and suppression efforts in wildland and urban areas that abut wildland between the Federal Government and States and local communities.

(7) Suggested approaches to improve the organization and training assistance provided to non-Federal governmental entities concerning the prevention and suppression of wildfires.

(8) Suggested approaches for the integration of all rural fire and emergency response activities under a common incident management system.

(9) Suggested approaches for improving the education of homeowners who reside near wildland that is susceptible to wildfires and private insurers concerning fire prevention and fire suppression, and the responsibilities of those homeowners and private insurers concerning those activities.

(c) REPORT.—

(1) IN GENERAL.—On completion of the study conducted under this section, but not later than 1 year after the date of enactment of this Act, the National Wildfire Coordinating Group shall prepare a report on the results of the study that includes any

recommendations that the National Wildfire Coordinating Group determines to be appropriate and submit a copy of that report to the Secretary of Agriculture and the Secretary of the Interior.

(2) SUBMISSION TO CONGRESS.—On receiving a copy of the report under paragraph (1), the Secretary of Agriculture shall transmit to the Congress a copy of the report.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATIONS.—There are authorized to be appropriated to the Agency such sums as may be necessary for the Director of the Agency to carry out this title.

(b) MITIGATION FUND.—In addition to the funds authorized to be appropriated under subsection (a), there are authorized to be appropriated to the Mitigation Fund established under section 202 such sums as may be necessary to support hazard mitigation.

(c) TREATMENT OF SPENDING AUTHORITY.—Any spending authority authorized by this section shall be effective only to such extent and in such amounts as are provided in appropriation Acts.

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