

**Union Calendar No. 292**

106TH CONGRESS  
2D SESSION

**H. R. 21**

**[Report No. 106-526]**

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**A BILL**

To establish a Federal program to provide  
reinsurance for State disaster insurance programs.

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MARCH 15, 2000

Reported with an amendment, committed to the Com-  
mittee of the Whole House on the State of the Union,  
and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. LAZIO (for himself, Mr. MCCOLLUM, Mr. BENTSEN, Mr. LAFALCE, Mr. BAKER, Mr. WEYGAND, Mr. SHERMAN, Mr. LEACH, Mrs. ROUKEMA, Mr. CAMPBELL, Mr. METCALF, Mrs. KELLY, Mr. WELDON of Florida, Mr. ACKERMAN, Mr. MALONEY of Connecticut, Ms. HOOLEY of Oregon, Mr. COOKSEY, Mr. DREIER, Mr. YOUNG of Alaska, Mr. FROST, Mr. FARR of California, Mr. MCCRERY, Mrs. MEEK of Florida, Ms. CHRISTIAN-GREEN, Mr. CANADY of Florida, Mr. CALVERT, Mr. SHAW, Mr. CUNNINGHAM, Mr. EWING, Mr. DAVIS of Florida, Mr. PRICE of North Carolina, Mr. McKEON, Mr. BILIRAKIS, Mr. BOYD, Mrs. FOWLER, Mr. LOBIONDO, Mr. BLUNT, Mr. LAHOOD, Mrs. THURMAN, Mr. WEXLER, Ms. ROS-LEHTINEN, Mr. KNOLLENBERG, Mr. MICA, Mr. DEUTSCH, Mr. STEARNS, Mr. TRAFICANT, and Mr. PORTER) introduced the following bill; which was referred to the Committee on Banking and Financial Services

MARCH 15, 2000

Additional sponsors: Mr. DIAZ-BALART, Mr. LATOURETTE, Mr. HASTINGS of Florida, Mr. FOLEY, Mr. WELDON of Pennsylvania, Ms. VELAZQUEZ, Mr. MARTINEZ, Mr. DICKEY, Mr. RADANOVICH, Mr. PICKETT, Mr. HERGER, Mr. SMITH of Washington, Mr. WELLER, Mr. PALLONE, Mr. DOOLEY of California, Mr. OSE, Mr. LEWIS of Kentucky, Mr. CRANE, Ms. SANCHEZ, Mr. DEAL of Georgia, Mrs. EMERSON, Mr. GEKAS, Mr. TALENT, Mr. CLYBURN, Mr. FILNER, Mr. QUINN, Mr. MINGE, Mr. GARY MILLER of California, Mr. WISE, Mr. RILEY, Mr. POMBO, Mr. LARSON, Mr. ANDREWS, Mr. CALLAHAN, Mr. SHOWS, Mr. RAHALL, Mr. NETHERCUTT, Mr. THORNBERRY, Mr. COOK, Mr. MATSUI, Mr. SPENCE, Mr. SESSIONS, Mr. TANNER, Mr. KING, Mr. BERMAN, Mrs. MYRICK, Mr. SCARBOROUGH, Mr. MOLLOHAN, Mr. MCINTYRE, Mr. ETHERIDGE, Mr.

DOYLE, Mr. McINTOSH, Mr. JOHN, Ms. BROWN of Florida, Mr. JONES of North Carolina, Mr. HULSHOF, Mr. SANDLIN, Mr. GORDON, Mr. VITTER, Mrs. BIGGERT, Mr. MANZULLO, Mr. FRANKS of New Jersey, Mr. FORBES, Mr. MASCARA, and Mr. MEEKS of New York

MARCH 15, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 6, 1999]

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## A BILL

To establish a Federal program to provide reinsurance for State disaster insurance programs.

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 AND TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*  
5 *“Homeowners’ Insurance Availability Act of 2000”.*

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

*Sec. 1. Short title.*

*Sec. 2. Congressional findings.*

*Sec. 3. Program authority.*

*Sec. 4. Qualified lines of coverage.*

*Sec. 5. Covered perils.*

*Sec. 6. Contracts for reinsurance coverage for eligible State programs.*

*Sec. 7. Auction of contracts for reinsurance coverage.*

*Sec. 8. Anti-redlining requirement.*

*Sec. 9. Minimum level of retained losses and maximum Federal liability.*

*Sec. 10. Disaster Reinsurance Fund.*

*Sec. 11. National Commission on Catastrophe Risks and Insurance Loss Costs.*

*Sec. 12. Definitions.*

*Sec. 13. Regulations.*

*Sec. 14. Termination.*

*Sec. 15. Annual study of cost and availability of disaster insurance and program need.*

*Sec. 16. GAO study of hurricane related flooding.*

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 *The Congress finds that—*

3 *(1) the rising costs resulting from natural disas-*  
4 *ters have placed a strain on homeowners' insurance*  
5 *markets in many areas, jeopardizing the ability of*  
6 *many consumers to adequately insure their homes*  
7 *and possessions;*

8 *(2) the lack of sufficient insurance capacity*  
9 *threatens to increase the number of uninsured home-*  
10 *owners, which, in turn, increases the risk of mortgage*  
11 *defaults and the strain on the Nation's banking sys-*  
12 *tem;*

13 *(3) some States have intervened to ensure the*  
14 *continued availability of homeowners' insurance for*  
15 *all residents;*

16 *(4) it is appropriate that efforts to improve in-*  
17 *surance availability be designed and implemented at*  
18 *the State level;*

19 *(5) while State insurance programs may be ade-*  
20 *quate to cover losses from most natural disasters, a*  
21 *small percentage of events are likely to exceed the fi-*  
22 *nancial capacity of these programs and the local in-*  
23 *surance markets;*

24 *(6) limited Federal reinsurance will improve the*  
25 *effectiveness of State insurance programs and private*  
26 *insurance markets and will increase the likelihood*

1        *that homeowners' insurance claims will be fully paid*  
2        *in the event of a large natural catastrophe;*

3            *(7) it is necessary to provide, on a temporary*  
4        *basis, a Federal reinsurance program that will pro-*  
5        *mote stability in the homeowners' insurance market*  
6        *in the short term and encourage the growth of rein-*  
7        *surance capacity by the private and capital markets*  
8        *as soon as practicable;*

9            *(8) such a Federal reinsurance program should*  
10       *not remain in existence longer than necessary for the*  
11       *private entities or the capital markets, or both, to*  
12       *provide adequate reinsurance capacity to address the*  
13       *current homeowners' insurance market dislocations*  
14       *caused by various disasters; and*

15           *(9) any Federal reinsurance program must be*  
16       *founded upon sound actuarial principles and priced*  
17       *in a manner that minimizes the potential impact on*  
18       *the Treasury.*

19    **SEC. 3. PROGRAM AUTHORITY.**

20           *(a) IN GENERAL.—The Secretary of the Treasury shall*  
21       *carry out a program under this Act to make reinsurance*  
22       *coverage available through—*

23           *(1) contracts for reinsurance coverage under sec-*  
24       *tion 6, which shall be made available for purchase*  
25       *only by eligible State programs; and*

1           (2) *contracts for reinsurance coverage under sec-*  
2           *tion 7, which shall be made available for purchase by*  
3           *purchasers under section 7(a)(1) only through auc-*  
4           *tions under section 7(a).*

5           (b) *PURPOSE.—The program shall be designed to make*  
6           *reinsurance coverage under this Act available to improve*  
7           *the availability of homeowners’ insurance for the purpose*  
8           *of facilitating the pooling, and spreading the risk, of cata-*  
9           *strophic financial losses from natural disasters and to im-*  
10          *prove the solvency of homeowners’ insurance markets.*

11          (c) *CONTRACT PRINCIPLES.—Under the program*  
12          *under this Act, the Secretary shall offer reinsurance cov-*  
13          *erage through contracts with covered purchasers, which*  
14          *contracts—*

15               (1) *shall not displace or compete with the private*  
16               *insurance or reinsurance markets or capital markets;*

17               (2) *shall minimize the administrative costs of the*  
18               *Federal Government;*

19               (3) *shall, in the case of any contract under sec-*  
20               *tion 6 for an eligible State program, provide coverage*  
21               *based solely on insured losses within the State of the*  
22               *eligible State program purchasing the contract; and*

23               (4) *shall, in the case of any contract under sec-*  
24               *tion 7 for purchase at auction, provide coverage based*

1       *solely on insured losses within the region established*  
 2       *pursuant to section 7(a) for which the auction is held.*

3   **SEC. 4. QUALIFIED LINES OF COVERAGE.**

4       *Each contract for reinsurance coverage made available*  
 5       *under this Act shall provide insurance coverage against res-*  
 6       *idential property losses to homes (including dwellings*  
 7       *owned under condominium and cooperative ownership ar-*  
 8       *rangements) and the contents of apartment buildings.*

9   **SEC. 5. COVERED PERILS.**

10       *Each contract for reinsurance coverage made available*  
 11       *under this Act shall cover losses that are—*

12               *(1) proximately caused by—*

13                       *(A) earthquakes;*

14                       *(B) perils ensuing from earthquakes, includ-*  
 15               *ing fire and tsunamis;*

16                       *(C) tropical cyclones having maximum sus-*  
 17               *tained winds of at least 74 miles per hour, in-*  
 18               *cluding hurricanes and typhoons;*

19                       *(D) tornadoes; or*

20                       *(E) volcanic eruptions; and*

21               *(2) in the case only of a contract under section*  
 22       *6, insured or reinsured by the eligible State program*  
 23       *purchasing the contract.*

24       *The Secretary shall, by regulation, define the natural dis-*  
 25       *aster perils under paragraph (1).*

1 **SEC. 6. CONTRACTS FOR REINSURANCE COVERAGE FOR EL-**  
 2 **IGIBLE STATE PROGRAMS.**

3 (a) *ELIGIBLE STATE PROGRAMS.*—A program shall be  
 4 eligible to purchase a contract under this section for rein-  
 5 surance coverage under this Act only if the State entity au-  
 6 thorized to make such determinations certifies to the Sec-  
 7 retary that the program is a State-operated program that  
 8 complies with the following requirements:

9 (1) *PROGRAM DESIGN.*—The program shall be a  
 10 State-operated—

11 (A) insurance program that—

12 (i) offers coverage for homes (which  
 13 may include dwellings owned under condo-  
 14 minium and cooperative ownership ar-  
 15 rangements) and the contents of apartments  
 16 to State residents because of a finding by  
 17 the State insurance commissioner or other  
 18 State entity authorized to make such deter-  
 19 mination that such a program is necessary  
 20 in order to provide for the continued avail-  
 21 ability of such residential coverage for all  
 22 residents; and

23 (ii) is authorized by State law; or

24 (B) reinsurance program that is designed to  
 25 improve private insurance markets that offer  
 26 coverage for homes (which may include dwellings



1        *owned under condominium and cooperative own-*  
2        *ership arrangements) and the contents of apart-*  
3        *ments because of a finding by the State insur-*  
4        *ance commissioner or other State entity author-*  
5        *ized to make such determination that such a pro-*  
6        *gram is necessary in order to provide for the*  
7        *continued availability of such residential cov-*  
8        *erage for all residents.*

9        (2) *OPERATION.*—*The program shall meet the*  
10       *following requirements:*

11                (A) *A majority of the members of the gov-*  
12                *erning body of the program shall be public offi-*  
13                *cials.*

14                (B) *The State shall have a financial interest*  
15                *in the program, which shall not include a pro-*  
16                *gram authorized by State law or regulation that*  
17                *requires insurers to pool resources to provide*  
18                *property insurance coverage for covered perils.*

19        (3) *TAX STATUS.*—*The program shall be struc-*  
20        *tured and carried out in a manner so that the pro-*  
21        *gram is exempt from all Federal taxation.*

22        (4) *COVERAGE.*—*The program shall cover only a*  
23        *single peril.*

24        (5) *EARNINGS.*—*The program may not provide*  
25        *for, nor shall have ever made, any redistribution of*

any part of any net profits of the program to any insurer that participates in the program.

(6) *MITIGATION.*—

(A) *IN GENERAL.*—The program shall include mitigation provisions that require that not less than 10 percent of the net investment income of the State insurance or reinsurance program be used for programs to mitigate losses from natural disasters for which the State insurance or reinsurance program was established. For purposes of this paragraph, mitigation shall include methods to reduce losses of life and property.

(B) *EXCEPTION.*—Notwithstanding subparagraph (A), in the case of any State for which the Secretary has determined, pursuant to a request by the State insurance commissioner, that the 10 percent requirement under subparagraph (A) will jeopardize the actuarial soundness of the State program, subparagraph (A) shall be applied by substituting “5 percent” for “10 percent”.

(7) *REQUIREMENTS REGARDING COVERAGE.*—

(A) *IN GENERAL.*—The program—

(i) may not involve cross-subsidization between any separate property and casualty

1        *lines covered under the program unless the*  
2        *elimination of such activity in an existing*  
3        *program would negatively impact the eligi-*  
4        *bility of the program to purchase a contract*  
5        *for reinsurance coverage under this Act pur-*  
6        *suant to paragraph (3);*

7                *(ii) shall include provisions that au-*  
8        *thorize the State insurance commissioner or*  
9        *other State entity authorized to make such*  
10       *a determination to terminate the program if*  
11       *the insurance commissioner or other such*  
12       *entity determines that the program is no*  
13       *longer necessary to ensure the availability*  
14       *of homeowners' insurance for all State resi-*  
15       *dents; and*

16                *(iii) shall provide that, for any insur-*  
17       *ance coverage for homes (which may include*  
18       *dwellings owned under condominium and*  
19       *cooperative ownership arrangements) and*  
20       *the contents of apartments that is made*  
21       *available under the State insurance pro-*  
22       *gram and for any reinsurance coverage for*  
23       *such insurance coverage made available*  
24       *under the State reinsurance program, the*  
25       *premium rates charged shall be amounts*

1           *that, at a minimum, are sufficient to cover*  
2           *the full actuarial costs of such coverage,*  
3           *based on consideration of the risks involved*  
4           *and accepted actuarial and rate making*  
5           *principles, anticipated administrative ex-*  
6           *penses, and loss and loss-adjustment ex-*  
7           *penses.*

8           *(B) APPLICABILITY.—This paragraph shall*  
9           *apply—*

10           *(i) before the expiration of the 2-year*  
11           *period beginning on the date of the enact-*  
12           *ment of this Act, only to State programs*  
13           *which, after January 1, 1999, commence of-*  
14           *fering insurance or reinsurance coverage de-*  
15           *scribed in subparagraph (A) or (B), respec-*  
16           *tively, of paragraph (1); and*

17           *(ii) after the expiration of such period,*  
18           *to all State programs.*

19           *(8) OTHER QUALIFICATIONS.—*

20           *(A) IN GENERAL.—The State program shall*  
21           *(for the year for which the coverage is in effect)*  
22           *comply with regulations that shall be issued*  
23           *under this paragraph by the Secretary, in con-*  
24           *sultation with the National Commission on Ca-*  
25           *tastrophe Risks and Insurance Loss Costs estab-*

1        *lished under section 11. The regulations shall es-*  
2        *tablish criteria for State programs to qualify to*  
3        *purchase reinsurance under this section, which*  
4        *are in addition to the requirements under the*  
5        *other paragraphs of this subsection.*

6                (B) *CONTENTS.—The regulations issued*  
7        *under this paragraph shall include requirements*  
8        *that—*

9                        (i) *the State program have public*  
10                      *members on its board of directors or have*  
11                      *an advisory board with public members;*

12                      (ii) *insurance or reinsurance coverage,*  
13                      *as applicable, made available through the*  
14                      *State program not supplant coverage that is*  
15                      *otherwise reasonably available and afford-*  
16                      *able in the private market;*

17                      (iii) *the State program provide ade-*  
18                      *quate insurance or reinsurance protection,*  
19                      *as applicable, for the peril covered, which*  
20                      *shall include a range of deductibles and pre-*  
21                      *mium costs that reflect the applicable risk*  
22                      *to eligible properties;*

23                      (iv) *insurance or reinsurance coverage,*  
24                      *as applicable, provided by the State pro-*

1            *gram is made available on a nondiscrim-*  
2            *inatory basis to all qualifying residents;*

3            *(v) any new construction, substantial*  
4            *rehabilitation, and renovation insured or*  
5            *reinsured by the program complies with ap-*  
6            *plicable State or local government building,*  
7            *fire, and safety codes;*

8            *(vi) the State, or appropriate local*  
9            *governments within the State, have in effect*  
10           *and enforce nationally recognized model*  
11           *building, fire, and safety codes and con-*  
12           *sensus-based standards that offer disaster*  
13           *resistance that is substantially equivalent or*  
14           *greater than the resistance under any re-*  
15           *quirements for floods, earthquakes, or wind*  
16           *resistance issued by the Federal Emergency*  
17           *Management Agency;*

18           *(vii) the State has taken actions to es-*  
19           *tablish an insurance rate structure that*  
20           *takes into account measures to mitigate in-*  
21           *surance losses;*

22           *(viii) there are in effect, in such State,*  
23           *laws or regulations sufficient to prohibit*  
24           *price gouging, during the term of reinsur-*  
25           *ance coverage under this Act for the State*

1                    *program, in any disaster area located with-*  
2                    *in the State; and*

3                    *(ix) the State program complies with*  
4                    *such other requirements that the Secretary*  
5                    *considers necessary to carry out the pur-*  
6                    *poses of this Act.*

7            *(b) TERMS OF CONTRACTS.—Each contract under this*  
8            *section for reinsurance coverage under this Act shall be sub-*  
9            *ject to the following terms and conditions:*

10            *(1) MATURITY.—The term of the contract shall*  
11            *not exceed 1 year or such other term as the Secretary*  
12            *may determine.*

13            *(2) PAYMENT CONDITION.—The contract shall*  
14            *authorize claims payments for eligible losses only to*  
15            *the eligible State program purchasing the coverage.*

16            *(3) RETAINED LOSSES REQUIREMENT.—For each*  
17            *event of a covered peril, the contract shall make a*  
18            *payment for the event only if the total amount of in-*  
19            *surance claims for losses, which are covered by quali-*  
20            *fied lines, occur to properties located within the State*  
21            *covered by the contract, and result from the event, ex-*  
22            *ceeds the amount of retained losses provided under the*  
23            *contract (pursuant to section 9(a)) purchased by the*  
24            *eligible State program.*

1           (4) *MULTIPLE EVENTS.*—*The contract shall cover*  
 2           *any eligible losses from one or more covered events*  
 3           *that may occur during the term of the contract and*  
 4           *shall provide that if multiple events occur, the re-*  
 5           *tained losses requirement under paragraph (3) shall*  
 6           *apply to each event.*

7           (5) *TIMING OF ELIGIBLE LOSSES.*—*Eligible*  
 8           *losses under the contract shall include only insurance*  
 9           *claims for property covered by qualified lines that are*  
 10          *reported to the eligible State program within the 3-*  
 11          *year period beginning upon the event or events for*  
 12          *which payment under the contract is provided.*

13          (6) *PRICING.*—

14                (A) *DETERMINATION.*—*The price of reinsur-*  
 15                *ance coverage under the contract shall be an*  
 16                *amount established by the Secretary as follows:*

17                   (i) *RECOMMENDATIONS.*—*The Sec-*  
 18                   *retary shall take into consideration the rec-*  
 19                   *ommendations of the Commission in estab-*  
 20                   *lishing the price, but the price may not be*  
 21                   *less than the amount recommended by the*  
 22                   *Commission.*

23                   (ii) *FAIRNESS TO TAXPAYERS.*—*The*  
 24                   *price shall be established at a level that is*  
 25                   *designed to return to the Federal Govern-*



1            *ment fair compensation for the risks and*  
 2            *costs being borne by the people of the United*  
 3            *States and that takes into consideration the*  
 4            *developmental stage of empirical models of*  
 5            *natural disasters and the capacity of pri-*  
 6            *vate markets to absorb insured losses from*  
 7            *natural disasters.*

8            (iii) *SELF-SUFFICIENCY.—The rates*  
 9            *for reinsurance coverage shall be established*  
 10           *at a level that annually produces expected*  
 11           *premiums which shall be sufficient to pay*  
 12           *the expected annualized cost of all claims,*  
 13           *loss adjustment expenses, and all adminis-*  
 14           *trative costs of reinsurance coverage offered*  
 15           *under this section.*

16           (B) *COMPONENTS.—The price shall consist*  
 17           *of the following components:*

18           (i) *RISK-BASED PRICE.—A risk-based*  
 19           *price, which shall reflect the anticipated*  
 20           *annualized payout of the contract according*  
 21           *to the actuarial analysis and recommenda-*  
 22           *tions of the Commission.*

23           (ii) *RISK LOAD.—A risk load in an*  
 24           *amount that is not less than the risk-based*  
 25           *price under clause (i). In establishing risk*

1                   *loads under this clause, the Secretary shall*  
2                   *take into consideration comparable private*  
3                   *risk loads.*

4                   *(iii) ADMINISTRATIVE COSTS.—A sum*  
5                   *sufficient to provide for the operation of the*  
6                   *Commission and the administrative ex-*  
7                   *penses incurred by the Secretary in car-*  
8                   *rying out this Act.*

9                   *(7) INFORMATION.—The contract shall contain a*  
10                  *condition providing that the Commission may require*  
11                  *the State program that is covered under the contract*  
12                  *to submit to the Commission all information on the*  
13                  *State program relevant to the duties of the Commis-*  
14                  *sion, as determined by the Secretary.*

15                  *(8) ADDITIONAL CONTRACT OPTION.—The con-*  
16                  *tract shall provide that the purchaser of the contract*  
17                  *may, during the term of such original contract, pur-*  
18                  *chase additional contracts from among those offered*  
19                  *by the Secretary at the beginning of the term, subject*  
20                  *to the limitations under section 9, at the prices at*  
21                  *which such contracts were offered at the beginning of*  
22                  *the term, prorated based upon the remaining term as*  
23                  *determined by the Secretary. Such additional con-*  
24                  *tracts shall provide coverage beginning on a date 15*  
25                  *days after the date of purchase but shall not provide*

1       *coverage for losses for an event that has already oc-*  
 2       *curred.*

3               (9) *OTHERS.—The contract shall contain such*  
 4       *other terms as the Secretary considers necessary to*  
 5       *carry out this Act and to ensure the long-term finan-*  
 6       *cial integrity of the program under this Act.*

7       (c) *PRIVATE SECTOR RIGHT TO PARTICIPATE.—*

8               (1) *ESTABLISHMENT OF COMPETITIVE PROCE-*  
 9       *DURE.—The Secretary shall establish, by regulation,*  
 10       *a competitive procedure under this subsection that*  
 11       *provides qualified entities an opportunity, on a basis*  
 12       *consistent with the contract cycle established under*  
 13       *this Act by the Secretary, to offer to provide, in lieu*  
 14       *of reinsurance coverage under this section, reinsur-*  
 15       *ance coverage that is substantially similar to coverage*  
 16       *otherwise made available under this section.*

17              (2) *COMPETITIVE PROCEDURE.—Under the pro-*  
 18       *cedure established under this subsection—*

19                   (A) *the Secretary shall establish criteria for*  
 20       *private insurers, reinsurers, and capital market*  
 21       *companies, and consortia of such entities to be*  
 22       *treated as qualified entities for purposes of this*  
 23       *subsection, which criteria shall require such an*  
 24       *entity to have at all times capital sufficient to*  
 25       *satisfy the terms of the reinsurance contracts and*

1       *shall include such other industry and credit rat-*  
2       *ing standards as the Secretary considers appro-*  
3       *priate;*

4               *(B) not less than 30 days before the begin-*  
5       *ning of each contract cycle during which any re-*  
6       *insurance coverage under this section is to be*  
7       *made available, the Secretary may request pro-*  
8       *posals and shall publish in the Federal Register*  
9       *the rates and terms for contracts for reinsurance*  
10       *coverage under this section that are to be made*  
11       *available during such contract cycle;*

12               *(C) the Secretary shall provide qualified en-*  
13       *tities a period of not less than 10 days (which*  
14       *shall terminate not less than 20 days before the*  
15       *beginning of the contract cycle) to submit to the*  
16       *Secretary a written expression of interest in pro-*  
17       *viding reinsurance coverage in lieu of the cov-*  
18       *erage otherwise to be made available under this*  
19       *section;*

20               *(D) the Secretary shall provide any quali-*  
21       *fied entity submitting an expression of interest*  
22       *during the period referred to in subparagraph*  
23       *(C) a period of not less than 20 days (which*  
24       *shall terminate before the beginning of the con-*  
25       *tract cycle) to submit to the Secretary an offer*

1       to provide, in lieu of the reinsurance coverage  
2       otherwise to be made available under this sec-  
3       tion, coverage that is substantially similar to  
4       such coverage;

5               (E) if the Secretary determines that an offer  
6       submitted during the period referred to in sub-  
7       paragraph (D) is a bona fide offer to provide re-  
8       insurance coverage during the contract cycle at  
9       rates and terms that are substantially similar to  
10      the rates and terms for reinsurance coverage oth-  
11      erwise to be provided under this section by the  
12      Secretary, the Secretary shall accept the offer (if  
13      still outstanding) and, notwithstanding any  
14      other provision of this Act, provide for such enti-  
15      ty to make reinsurance coverage available in ac-  
16      cordance with the offer; and

17              (F) if the Secretary accepts an offer pursu-  
18      ant to subparagraph (E) to make reinsurance  
19      coverage available, notwithstanding any other  
20      provision of this Act, the Secretary shall reduce,  
21      to an equivalent extent, the amount of reinsur-  
22      ance coverage available under this section during  
23      the contract cycle to which the offer relates, un-  
24      less and until the Secretary determines that the

1            *entity is not complying with the terms of the ac-*  
 2            *cepted offer.*

3    **SEC. 7. AUCTION OF CONTRACTS FOR REINSURANCE COV-**  
 4            **ERAGE.**

5            *(a) AUCTION PROGRAM REQUIREMENTS.—The Sec-*  
 6            *retary shall carry out a program to auction contracts for*  
 7            *reinsurance coverage under this Act made available pursu-*  
 8            *ant to section 3(a)(2), which shall comply with the fol-*  
 9            *lowing requirements:*

10            *(1) PURCHASERS.—The auction program shall*  
 11            *provide for auctioning all contracts made available*  
 12            *under this section to private insurers and reinsurers,*  
 13            *State insurance and reinsurance programs, and other*  
 14            *interested entities.*

15            *(2) REGIONAL AUCTIONS.—The auction program*  
 16            *shall provide for auctions on a regional basis. The*  
 17            *Secretary shall divide the States into not less than 6*  
 18            *regions for the purpose of holding such regional auc-*  
 19            *tions, which shall include separate regions for all or*  
 20            *part of the State of California and all or part of the*  
 21            *State of Florida. In determining the boundaries for*  
 22            *such regions, the Secretary shall consider which areas*  
 23            *have greater risks of losses from covered perils and*  
 24            *which areas have lesser risks of losses from covered*  
 25            *perils, and shall attempt not to combine those dif-*

1        *ferent types of areas. Auctions for each region shall be*  
2        *conducted not less often than annually.*

3            (3) *RESERVE PRICE.—In auctioning contracts*  
4        *under this section for reinsurance coverage, the Sec-*  
5        *retary shall set, for each contract, a reserve price that*  
6        *is the minimum price at which the contract may be*  
7        *sold, based upon the recommendations of the Commis-*  
8        *sion. The reserve price shall be determined on the*  
9        *basis of the following components:*

10            (A) *RISK-BASED PRICE.—A risk-based*  
11        *price, which shall reflect the anticipated*  
12        *annualized payout of the contract according to*  
13        *the actuarial analysis and recommendations of*  
14        *the Commission.*

15            (B) *RISK LOAD.—A risk load in an amount*  
16        *that is not less than the risk-based price under*  
17        *subparagraph (A).*

18            (C) *ADMINISTRATIVE COSTS.—A sum suffi-*  
19        *cient to provide for the operation of the Commis-*  
20        *sion and the administrative expenses incurred by*  
21        *the Secretary in carrying out this section.*

22            (D) *MITIGATION.—An adjustment based on*  
23        *an actuarial analysis that takes into account*  
24        *any efforts that are being made to reduce losses*

1           to property in the region in which the contract  
2           is being sold.

3           (4) *PRICE GOUGING PROTECTIONS.*—The auction  
4           program may provide reinsurance coverage for losses  
5           incurred only for property located in a State for  
6           which the State entity authorized to make such deter-  
7           minations has certified to the Secretary that there are  
8           in effect, in such State, laws or regulations sufficient  
9           to prohibit price gouging, during the term of such re-  
10          insurance coverage, in any disaster area located with-  
11          in the State.

12          (5) *MITIGATION REQUIREMENTS.*—

13                (A) *IN GENERAL.*—The auction program  
14                shall require each purchaser of a contract that is  
15                not an eligible State program, as a condition of  
16                such purchase, to contribute an amount, that the  
17                Secretary (in consultation with the Director of  
18                the Federal Emergency Management Agency)  
19                shall establish and which shall not exceed 5 per-  
20                cent of the price paid for the contract, to commu-  
21                nities that—

22                       (i) are located in the State in which  
23                       the reinsurance coverage under the contract  
24                       is provided (or in the case of multiple



1 *States, among such States, as determined by*  
2 *the Secretary);*

3 *(ii) are designated by the Director of*  
4 *the Federal Emergency Management Agency*  
5 *and the appropriate emergency manage-*  
6 *ment agency for the State as Project Impact*  
7 *communities (for purposes of the pre-dis-*  
8 *aster mitigation program of such Agency);*  
9 *and*

10 *(iii) are participating in such pro-*  
11 *grams or initiatives as the Secretary may*  
12 *require that provide incentives for construc-*  
13 *tion of structures and communities that are*  
14 *resistant to damage from covered perils,*  
15 *which shall include the Building Code Ef-*  
16 *fectiveness Grading Schedule of the Insur-*  
17 *ance Services Office.*

18 *(B) USE OF CONTRIBUTIONS.—Amounts*  
19 *contributed to communities pursuant to the re-*  
20 *quirement under subparagraph (A) shall be used*  
21 *only—*

22 *(i) for activities to reduce losses from*  
23 *covered perils to properties covered under*  
24 *the reinsurance contract purchased under*

1           the auction program that are located in  
2           such communities; and

3           (ii) in accordance with such require-  
4           ments as the Secretary, in consultation with  
5           the Director of the Federal Emergency Man-  
6           agement Agency and appropriate State  
7           agencies, shall establish to ensure cost-effec-  
8           tive use of such amounts.

9           (C) *ALLOCATION.*—The Secretary, in con-  
10          sultation with the Director of the Federal Emer-  
11          gency Management Agency, shall establish re-  
12          quirements for allocation of contributions among  
13          communities eligible under subparagraph (A) to  
14          receive such contributions.

15          (6) *OTHER REQUIREMENTS.*—The Secretary may  
16          establish such other requirements for the auction pro-  
17          gram as the Secretary considers necessary to carry  
18          out this Act.

19          (b) *CONTRACT TERMS AND CONDITIONS.*—Each con-  
20          tract for reinsurance coverage auctioned under the program  
21          under this section shall include the following terms and con-  
22          ditions:

23               (1) *MATURITY.*—The term of each such contract  
24               shall not exceed 1 year or such other term as the Sec-  
25               retary may determine.

1           (2) *TRANSFERABILITY.*—*The contract shall at all*  
 2           *times be fully transferable, assignable, and divisible.*

3           (3) *THRESHOLD OF COVERAGE.*—*The contract*  
 4           *shall provide that the covered purchaser may receive*  
 5           *a payment for losses covered under the contract if,*  
 6           *under a process specified in the contract, the Sec-*  
 7           *retary determines that the insurance industry will, as*  
 8           *a result of a single event of a covered peril, incur*  
 9           *losses within the coverage area for the region estab-*  
 10          *lished under subsection (a)(2) for which the contract*  
 11          *was auctioned that are covered by one or more lines*  
 12          *of insurance under section 5 in an aggregate amount,*  
 13          *for such event, greater than the level of retained losses*  
 14          *specified in section 9.*

15          (4) *MULTIPLE EVENTS.*—*The contract shall con-*  
 16          *tain the provisions described in section 6(b)(4).*

17          (5) *ADDITIONAL CONTRACT OPTION.*—*The con-*  
 18          *tract shall contain the provisions described in section*  
 19          *6(b)(8).*

20          (6) *SUBMISSION OF INFORMATION.*—*The contract*  
 21          *shall include terms that—*

22                  (A) *require the purchaser to notify the Sec-*  
 23                  *retary of any sale, transfer, assignment, or divi-*  
 24                  *sion of the contract or any interest in the con-*

1           *tract, identify the interest involved, and identify*  
 2           *the price paid or compensation provided; and*

3                     *(B) authorize the disclosures required under*  
 4           *subsection (c)(2).*

5           *(7) OTHERS.—The contract shall contain such*  
 6           *other terms as the Secretary considers necessary to*  
 7           *carry out this Act and to ensure the long-term finan-*  
 8           *cial integrity of the program under this Act.*

9           *(c) GAO AUDIT.—*

10                   *(1) IN GENERAL.—For each fiscal year, the*  
 11           *Comptroller General of the United States shall con-*  
 12           *duct an audit of prices for contracts made available*  
 13           *under the auction program under this section during*  
 14           *such fiscal year that determines—*

15                    *(A) the reserve prices established for such*  
 16           *contracts;*

17                    *(B) the prices paid for such contracts that*  
 18           *are purchased;*

19                    *(C) the prices paid, or compensation pro-*  
 20           *vided, in any sales, transfers, assignments, or di-*  
 21           *visions of any such contracts (or any interests in*  
 22           *such contracts) in the secondary market or to*  
 23           *any third party; and*

24                    *(D) pursuant to the information obtained*  
 25           *under subparagraphs (A) through (C), the appro-*

1            *priate reserve prices for such contracts that are*  
 2            *to be made available in the succeeding fiscal*  
 3            *year.*

4            (2) *USE OF INFORMATION.—The Secretary shall*  
 5            *provide any information referred to in subsection*  
 6            *(b)(6) that is obtained by the Secretary to the Comp-*  
 7            *troller General, the Director of the Congressional*  
 8            *Budget Office, and the Director of the Office of Man-*  
 9            *agement and Budget, and shall make such informa-*  
 10           *tion publicly available. The Secretary, the Director of*  
 11           *the Congressional Budget Office, the Director of the*  
 12           *Office of Management and Budget shall each take*  
 13           *such information into consideration in preparing any*  
 14           *budget, report, estimate, or recommendation to the ex-*  
 15           *tent it relates to the auction program under this sec-*  
 16           *tion, and in any determinations relating to the Budg-*  
 17           *et of the United States or the concurrent resolution on*  
 18           *the budget (as such term is defined in section 3 of the*  
 19           *Congressional Budget Act of 1974). The Secretary*  
 20           *shall take such information into consideration in es-*  
 21           *tablishing reserve prices for contracts made available*  
 22           *under this section.*

23 **SEC. 8. ANTI-REDLINING REQUIREMENT.**

24           *Notwithstanding sections 6(a) and 7(a), the Secretary*  
 25           *may not make a contract for reinsurance coverage under*

1 *this Act available for purchase unless the purchaser certifies*  
2 *to the Secretary—*

3 *(1) in the case of a contract under section 6,*  
4 *that—*

5 *(A) no insurer (or affiliate of such insurer)*  
6 *participating in the State-operated program of*  
7 *such purchaser has been adjudicated in any Fed-*  
8 *eral court, or has entered, after the date of the*  
9 *enactment of this Act, into a consent decree filed*  
10 *in a Federal court or into a settlement agree-*  
11 *ment, premised upon a violation of the Fair*  
12 *Housing Act for the activities involved in mak-*  
13 *ing insurance coverage available; and*

14 *(B) if such insurer (or affiliate) has entered*  
15 *into any such consent decree or settlement agree-*  
16 *ment, the insurer (or affiliate) is not in violation*  
17 *of the decree or settlement agreement as deter-*  
18 *mined by a court of competent jurisdiction or the*  
19 *agency with which the decree or agreement was*  
20 *entered into; and*

21 *(2) in the case of a contract under section 7,*  
22 *that—*

23 *(A)(i) in the case of a contract purchased*  
24 *by an insurer or reinsurer, the insurer or rein-*  
25 *surer (or affiliate of such insurer or reinsurer)*

1       *has not been adjudicated in any Federal court,*  
2       *and has not entered, after the date of the enact-*  
3       *ment of this Act, into a consent decree filed in*  
4       *a Federal court or into a settlement agreement,*  
5       *premised upon a violation of the Fair Housing*  
6       *Act for the activities involved in making insur-*  
7       *ance coverage available; or*

8               *(ii) in the case of a contract purchased by*  
9       *a State program, no insurer (or affiliate of such*  
10       *insurer) participating in the State program has*  
11       *been adjudicated in any Federal court, or has*  
12       *entered, after the date of the enactment of this*  
13       *Act, into a consent decree filed in a Federal*  
14       *court or into a settlement agreement, premised*  
15       *upon a violation of the Fair Housing Act for the*  
16       *activities involved in making insurance coverage*  
17       *available; and*

18               *(B) if such an insurer or reinsurer (or affil-*  
19       *iate of such an insurer or reinsurer) has entered*  
20       *into any such consent decree or settlement agree-*  
21       *ment, the insurer or reinsurer (or affiliate) is*  
22       *not in violation of the decree or settlement agree-*  
23       *ment as determined by a court of competent ju-*  
24       *risdiction or the agency with which the decree or*  
25       *agreement was entered into.*

1 **SEC. 9. MINIMUM LEVEL OF RETAINED LOSSES AND MAX-**  
 2 **IMUM FEDERAL LIABILITY.**

3       (a) *AVAILABLE LEVELS OF RETAINED LOSSES.*—In  
 4 making reinsurance coverage available under this Act, the  
 5 Secretary shall make available for purchase contracts for  
 6 such coverage that require the sustainment of retained losses  
 7 from a single event of a covered peril (as required under  
 8 sections 6(b)(3) and 7(b)(3) for payment of eligible losses)  
 9 in various amounts, as the Secretary, in consultation with  
 10 the Commission, determines appropriate and subject to the  
 11 requirements under subsection (b).

12       (b) *MINIMUM LEVEL OF RETAINED LOSSES.*—

13               (1) *CONTRACTS FOR STATE PROGRAMS.*—Subject  
 14 to paragraphs (3) and (4) and notwithstanding any  
 15 other provision of this Act, a contract for reinsurance  
 16 coverage under section 6 for an eligible State program  
 17 that offers insurance or reinsurance coverage de-  
 18 scribed in subparagraph (A) or (B), respectively, of  
 19 section 6(a)(1) may not be made available or sold un-  
 20 less the contract requires retained losses from a single  
 21 event of a covered peril in the following amount:

22                       (A) *IN GENERAL.*—The State program shall  
 23 sustain an amount of retained losses of not less  
 24 than the greater of—

25                               (i) an amount between \$2,000,000,000  
 26 and \$5,000,000,000, that is determined by



1           the Secretary in accordance with the re-  
2           quirement under section 3(c)(1);

3           (ii) the claims-paying capacity of the  
4           eligible State program, as determined by the  
5           Secretary; and

6           (iii) an amount, determined by the  
7           Secretary in consultation with the Commis-  
8           sion, that is in the range between the  
9           amount equal to the eligible loss projected to  
10          be incurred once every 100 years from a  
11          single event in the State and the amount  
12          equal to the eligible loss projected to be in-  
13          curred once every 250 years from such an  
14          event.

15          (B) *TRANSITION RULE FOR EXISTING PRO-*  
16          *GRAMS.—*

17               (i) *CLAIMS-PAYING CAPACITY.—*Subject  
18               to clause (ii), in the case of any eligible  
19               State program that was offering insurance  
20               or reinsurance coverage on the date of the  
21               enactment of this Act and the claims-paying  
22               capacity of which is greater than the  
23               amount determined under subparagraph  
24               (A)(i) but less than an amount determined  
25               for the State under subparagraph (A)(iii),

the minimum level of retained losses applicable under this paragraph shall be the claims-paying capacity of such State program.

(ii) *AGREEMENT.*—Clause (i) shall apply to a State program only if the State program enters into a written agreement with the Secretary providing a schedule for increasing the claims-paying capacity of the State program to the amount determined for the State under subparagraph (A)(iii) over a period not to exceed 5 years. The Secretary may extend the 5-year period for not more than 2 additional one-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program. The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential one-year extensions.

(C) *TRANSITION RULE FOR NEW PROGRAMS.*—

(i) *100-YEAR EVENT.*—The Secretary may provide that, in the case of an eligible

1           *State program that, after January 1, 1999,*  
 2           *commences offering insurance or reinsur-*  
 3           *ance coverage, during the 5-year period be-*  
 4           *ginning on the date that reinsurance cov-*  
 5           *erage under section 6 is first made avail-*  
 6           *able, the minimum level of retained losses*  
 7           *applicable under this paragraph shall be the*  
 8           *amount determined for the State under sub-*  
 9           *paragraph (A)(iii), except that such min-*  
 10          *imum level shall be adjusted annually as*  
 11          *provided in clause (ii) of this subpara-*  
 12          *graph.*

13           *(ii) ANNUAL ADJUSTMENT.—Each an-*  
 14          *nual adjustment under this clause shall in-*  
 15          *crease the minimum level of retained losses*  
 16          *applicable under this subparagraph to an*  
 17          *eligible State program described in clause*  
 18          *(i) in a manner such that—*

19           *(I) during the course of such 5-*  
 20          *year period, the applicable minimum*  
 21          *level of retained losses approaches the*  
 22          *minimum level that, under subpara-*  
 23          *graph (A), will apply to the eligible*  
 24          *State program upon the expiration of*  
 25          *such period; and*

1                   (ii) *each such annual increase is*  
2                   *a substantially similar amount, to the*  
3                   *extent practicable.*

4                   (D) *REDUCTION BECAUSE OF REDUCED*  
5                   *CLAIMS-PAYING CAPACITY.—*

6                   (i) *AUTHORITY.—Notwithstanding sub-*  
7                   *paragraphs (A), (B), and (C) or the terms*  
8                   *contained in a contract for reinsurance*  
9                   *pursuant to such subparagraphs, if the Sec-*  
10                  *retary determines that the claims-paying*  
11                  *capacity of an eligible State program has*  
12                  *been reduced because of payment for losses*  
13                  *due to an event, the Secretary may reduce*  
14                  *the minimum level of retained losses for the*  
15                  *State commensurate with the current capac-*  
16                  *ity of the State program, as determined by*  
17                  *the Secretary, but in no case may such min-*  
18                  *imum level be less than the amount deter-*  
19                  *mined under subparagraph (A)(i).*

20                  (ii) *TERM OF REDUCTION.—If the min-*  
21                  *imum level of retained losses for an eligible*  
22                  *State program is reduced pursuant to*  
23                  *clause (i), upon the expiration of the 5-year*  
24                  *period beginning upon such reduction the*  
25                  *minimum level of retained losses applicable*

1           to such State program under a contract for  
 2           reinsurance coverage under section 6 shall  
 3           be increased to an amount not less than the  
 4           amount applicable to such State program  
 5           immediately before such reduction.

6           (E) *CLAIMS-PAYING CAPACITY.*—For pur-  
 7           poses of this paragraph, the claims-paying ca-  
 8           pacity of a State-operated insurance or reinsur-  
 9           ance program under section 6(a)(1) shall be de-  
 10          termined by the Secretary, in consultation with  
 11          the Commission, taking into consideration the  
 12          claims-paying capacity as determined by the  
 13          State program, retained losses to private insur-  
 14          ers in the State in an amount assigned by the  
 15          State insurance commissioner, the cash surplus  
 16          of the program, and the lines of credit, reinsur-  
 17          ance, and other financing mechanisms of the  
 18          program established by law.

19          (2) *AUCTION CONTRACTS.*—Subject to para-  
 20          graphs (3) and (4) and notwithstanding any other  
 21          provision of this Act, a contract for reinsurance cov-  
 22          erage may not be made available or sold under section  
 23          7 through a regional auction unless the contract re-  
 24          quires that the insurance industry in the region for  
 25          which the auction was conducted sustains a cumu-

1        *lative amount of retained losses (in covered lines re-*  
2        *sulting from covered perils) of not less than the great-*  
3        *er of—*

4                *(A) an amount between \$2,000,000,000 and*  
5                *\$5,000,000,000, that is determined by the Sec-*  
6                *retary in accordance with the requirement under*  
7                *section 3(c)(1); and*

8                *(B) an amount, determined by the Sec-*  
9                *retary in consultation with the Commission, that*  
10               *is in the range between the amount equal to the*  
11               *eligible loss projected to be incurred once every*  
12               *100 years from a single event in the region and*  
13               *the amount equal to the eligible loss projected to*  
14               *be incurred once every 250 years from such an*  
15               *event.*

16               *(3) INITIAL ADJUSTMENT BASED ON PRIVATE*  
17               *MARKET.—The Secretary may, before making con-*  
18               *tracts for reinsurance coverage under this Act ini-*  
19               *tially available under section 6 or 7, raise the min-*  
20               *imum level of retained losses from the amount re-*  
21               *quired under paragraph (1) for an eligible State pro-*  
22               *gram or under paragraph (2) for a region to ensure,*  
23               *as determined by the Secretary, that such contracts*  
24               *comply with the principle under section 3(c)(1).*

1           (4) *ANNUAL ADJUSTMENT.*—*The Secretary may*  
2           *annually raise the minimum level of retained losses*  
3           *established under paragraph (1) for an eligible State*  
4           *program or under paragraph (2) for a region to re-*  
5           *flect, as determined by the Secretary—*

6                     *(A) in the case of an eligible State program,*  
7                     *changes to the claims-paying capacity of the pro-*  
8                     *gram;*

9                     *(B) changes in the capacity of the private*  
10                    *insurance and reinsurance market;*

11                    *(C) increases in the market value of prop-*  
12                    *erties; or*

13                    *(D) such other situations as the Secretary*  
14                    *considers appropriate.*

15           *The Secretary shall consider the minimum level of re-*  
16           *tained losses requirements in paragraphs (1) and (2)*  
17           *as minimum requirements only and shall have full*  
18           *authority, effective on the date of the enactment of*  
19           *this Act, to establish levels of required minimum re-*  
20           *tained losses in any amount greater than the amounts*  
21           *specified in such paragraphs. In making any deter-*  
22           *mination under this paragraph in the minimum level*  
23           *of retained losses, the Secretary shall establish such*  
24           *level at an amount such that the program under this*  
25           *Act for making reinsurance coverage available does*

1     *not displace or compete with the private insurance*  
 2     *or reinsurance markets or capital markets, as deter-*  
 3     *mined by the Secretary after the Secretary has pro-*  
 4     *vided interested parties an opportunity to submit to*  
 5     *the Commission market information relevant to such*  
 6     *determination and has provided the Commission with*  
 7     *an opportunity to advise the Secretary regarding such*  
 8     *information and determination.*

9             (5) *OPTIONAL ANNUAL INFLATIONARY OR EXPO-*  
 10     *SURE ADJUSTMENT.—The Secretary may, on an an-*  
 11     *nuual basis, raise the minimum level of retained losses*  
 12     *established under paragraph (1) for each eligible*  
 13     *State program and under paragraph (2) for each re-*  
 14     *gion to reflect the annual rate of inflation or growth*  
 15     *in exposures, whichever is greater. Any such raise*  
 16     *shall be made in accordance with an inflation index*  
 17     *or exposure index, as appropriate, that the Secretary*  
 18     *determines to be appropriate. The first such raise*  
 19     *may be made one year after contracts for reinsurance*  
 20     *coverage under this Act are first made available for*  
 21     *purchase.*

22     (c) *MAXIMUM FEDERAL LIABILITY.—*

23             (1) *IN GENERAL.—Notwithstanding any other*  
 24     *provision of law, the Secretary may sell only con-*  
 25     *tracts for reinsurance coverage under this Act in var-*



ious amounts which comply with the following requirements:

(A) *ESTIMATE OF AGGREGATE LIABILITY.*—

The aggregate liability for payment of claims under all such contracts in any single year is unlikely to exceed \$25,000,000,000 (as such amount is adjusted under paragraph (2)).

(B) *ELIGIBLE LOSS COVERAGE SOLD.*—Eli-

gible losses covered by all contracts sold within a State or region during a 12-month period do not exceed the difference between the following amounts (each of which shall be determined by the Secretary in consultation with the Commission):

(i) The amount equal to the eligible loss projected to be incurred once every 500 years from a single event in the State or region.

(ii) The amount equal to the eligible loss projected to be incurred once every 100 years from a single event in the State or region.

(2) *ANNUAL ADJUSTMENTS.*—The Secretary shall

annually adjust the amount under paragraph (1)(A) (as it may have been previously adjusted) to provide

1       for inflation in accordance with an inflation index  
2       that the Secretary determines to be appropriate.

3       (d) *LIMITATION ON PERCENTAGE OF RISK IN EXCESS*  
4 *OF RETAINED LOSSES.*—

5           (1) *IN GENERAL.*—*The Secretary may not make*  
6       *available for purchase contracts for reinsurance cov-*  
7       *erage under this Act that would pay out more than*  
8       *50 percent of eligible losses in excess of retained*  
9       *losses—*

10           (A) *in the case of a contract under section*  
11       *6 for an eligible State program, for such State;*  
12       *and*

13           (B) *in the case of a contract made available*  
14       *through a regional auction under section 7, for*  
15       *such region.*

16       (2) *PAYOUT.*—*For purposes of this subsection,*  
17       *the amount of payout from a reinsurance contract*  
18       *shall be the amount of eligible losses in excess of re-*  
19       *tained losses multiplied by the percentage under para-*  
20       *graph (1).*

21 **SEC. 10. DISASTER REINSURANCE FUND.**

22       (a) *ESTABLISHMENT.*—*There is established within the*  
23       *Treasury of the United States a fund to be known as the*  
24       *Disaster Reinsurance Fund (in this section referred to as*  
25       *the “Fund”).*

1       **(b) CREDITS.**—*The Fund shall be credited with—*

2               *(1) amounts received annually from the sale of*  
 3       *contracts for reinsurance coverage under this Act;*

4               *(2) any amounts borrowed under subsection (d);*

5               *(3) any amounts earned on investments of the*  
 6       *Fund pursuant to subsection (e); and*

7               *(4) such other amounts as may be credited to the*  
 8       *Fund.*

9       **(c) USES.**—*Amounts in the Fund shall be available*  
 10   *to the Secretary only for the following purposes:*

11               **(1) CONTRACT PAYMENTS.**—*For payments to*  
 12       *covered purchasers under contracts for reinsurance*  
 13       *coverage for eligible losses under such contracts.*

14               **(2) COMMISSION COSTS.**—*To pay for the oper-*  
 15       *ating costs of the Commission.*

16               **(3) ADMINISTRATIVE EXPENSES.**—*To pay for the*  
 17       *administrative expenses incurred by the Secretary in*  
 18       *carrying out the reinsurance program under this Act.*

19               **(4) TERMINATION.**—*Upon termination under*  
 20       *section 14, as provided in such section.*

21       **(d) BORROWING.**—

22               **(1) AUTHORITY.**—*To the extent that the amounts*  
 23       *in the Fund are insufficient to pay claims and ex-*  
 24       *penses under subsection (c), the Secretary may issue*  
 25       *such obligations of the Fund as may be necessary to*

1       *cover the insufficiency and shall purchase any such*  
2       *obligations issued.*

3               (2) *PUBLIC DEBT TRANSACTION.*—*For the pur-*  
4       *pose of purchasing any such obligations, the Secretary*  
5       *may use as a public debt transaction the proceeds*  
6       *from the sale of any securities issued under chapter*  
7       *31 of title 31, United States Code, and the purposes*  
8       *for which securities are issued under such chapter are*  
9       *hereby extended to include any purchase by the Sec-*  
10       *retary of such obligations under this subsection.*

11              (3) *CHARACTERISTICS OF OBLIGATIONS.*—*Obli-*  
12       *gations issued under this subsection shall be in such*  
13       *forms and denominations, bear such maturities, bear*  
14       *interest at such rate, and be subject to such other*  
15       *terms and conditions, as the Secretary shall deter-*  
16       *mine.*

17              (4) *TREATMENT.*—*All redemptions, purchases,*  
18       *and sales by the Secretary of obligations under this*  
19       *subsection shall be treated as public debt transactions*  
20       *of the United States.*

21              (5) *REPAYMENT.*—*Any obligations issued under*  
22       *this subsection shall be repaid, including interest,*  
23       *from the Fund and shall be recouped from premiums*  
24       *charged for reinsurance coverage provided under this*  
25       *Act.*

1       (e) *INVESTMENT.*—*If the Secretary determines that the*  
 2 *amounts in the Fund are in excess of current needs, the*  
 3 *Secretary may invest such amounts as the Secretary con-*  
 4 *siders advisable in obligations issued or guaranteed by the*  
 5 *United States.*

6       (f) *PROHIBITION OF FEDERAL FUNDS.*—*Except for*  
 7 *amounts made available pursuant to subsection (d) and sec-*  
 8 *tion 11(h), no Federal funds shall be authorized or appro-*  
 9 *priated for the Fund or for carrying out the reinsurance*  
 10 *program under this Act.*

11   **SEC. 11. NATIONAL COMMISSION ON CATASTROPHE RISKS**  
 12                   **AND INSURANCE LOSS COSTS.**

13       (a) *ESTABLISHMENT.*—*The Secretary shall establish a*  
 14 *commission to be known as the National Commission on*  
 15 *Catastrophe Risks and Insurance Loss Costs.*

16       (b) *DUTIES.*—*The Commission shall meet for the sole*  
 17 *purpose of advising the Secretary regarding the estimated*  
 18 *loss costs associated with the contracts for reinsurance cov-*  
 19 *erage available under this Act and carrying out the func-*  
 20 *tions specified in this Act.*

21       (c) *MEMBERS.*—*The Commission shall consist of not*  
 22 *more than 5 members, who shall be appointed by the Sec-*  
 23 *retary and shall be broadly representative of the public in-*  
 24 *terest. Members shall have no personal, professional, or fi-*  
 25 *nancial interest at stake in the deliberations of the Commis-*

1 sion. The membership of the Commission shall at all times  
2 include at least 1 representative of a nationally recognized  
3 consumer organization.

4 (d) *TREATMENT OF NON-FEDERAL MEMBERS.*—Each  
5 member of the Commission who is not otherwise employed  
6 by the Federal Government shall be considered a special  
7 Government employee for purposes of sections 202 and 208  
8 of title 18, United States Code.

9 (e) *EXPERTS AND CONSULTANTS.*—The Commission  
10 may procure temporary and intermittent services under  
11 section 3109(b) of title 5, United States Code, but at a rate  
12 not in excess of the daily equivalent of the annual rate of  
13 basic pay payable for level V of the Executive Schedule, for  
14 each day during which the individual procured is per-  
15 forming such services for the Commission.

16 (f) *COMPENSATION.*—Each member of the Commission  
17 who is not an officer or employee of the Federal Government  
18 shall be compensated at a rate of basic pay payable for level  
19 V of the Executive Schedule, for each day (including travel  
20 time) during which such member is engaged in the perform-  
21 ance of the duties of the Commission. All members of the  
22 Commission who are officers or employees of the United  
23 States shall serve without compensation in addition to that  
24 received for their services as officers or employees of the  
25 United States.

1       (g) *OBTAINING DATA.*—*The Commission and the Sec-*  
2 *retary may solicit loss exposure data and such other infor-*  
3 *mation either deems necessary to carry out its responsibil-*  
4 *ities from governmental agencies and bodies and organiza-*  
5 *tions that act as statistical agents for the insurance indus-*  
6 *try. The Commission and the Secretary shall take such ac-*  
7 *tions as are necessary to ensure that information that either*  
8 *deems is confidential or proprietary is disclosed only to au-*  
9 *thorized individuals working for the Commission or the Sec-*  
10 *retary. No company which refuses to provide information*  
11 *requested by the Commission or the Secretary may partici-*  
12 *pate in the program for reinsurance coverage authorized*  
13 *under this Act, nor may any State insurance or reinsurance*  
14 *program participate if any governmental agency within*  
15 *that State has refused to provide information requested by*  
16 *the Commission or the Secretary.*

17       (h) *FUNDING.*—

18               (1) *AUTHORIZATION OF APPROPRIATIONS.*—

19       *There are authorized to be appropriated—*

20               (A) *\$1,000,000 for fiscal year 2000 for the*  
21               *initial expenses in establishing the Commission*  
22               *and the initial activities of the Commission that*  
23               *cannot timely be covered by amounts obtained*  
24               *pursuant to sections 6(b)(6)(B)(iii) and*  
25               *7(a)(3)(C), as determined by the Secretary;*

1           (B) such additional sums as may be nec-  
 2           essary to carry out subsequent activities of the  
 3           Commission;

4           (C) \$1,000,000 for fiscal year 2000 for the  
 5           initial expenses of the Secretary in carrying out  
 6           the program authorized under section 3; and

7           (D) such additional sums as may be nec-  
 8           essary to carry out subsequent activities of the  
 9           Secretary under this Act.

10          (2) *OFFSET.*—The Secretary shall provide, to the  
 11          maximum extent practicable, that an amount equal to  
 12          any amount appropriated under paragraph (1) is ob-  
 13          tained from purchasers of reinsurance coverage under  
 14          this Act and deposited in the Fund established under  
 15          section 10. Such amounts shall be obtained by inclu-  
 16          sion of a provision for the Secretary's and the Com-  
 17          mission's expenses incorporated into the pricing of the  
 18          contracts for such reinsurance coverage, pursuant to  
 19          sections 6(b)(6)(B)(iii) and 7(a)(3)(C).

20          (i) *TERMINATION.*—The Commission shall terminate  
 21          upon the effective date of the repeal under section 14(c).

22   **SEC. 12. DEFINITIONS.**

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



1           (1) *COMMISSION.*—*The term “Commission”*  
 2           *means the National Commission on Catastrophe Risks*  
 3           *and Insurance Loss Costs established under section*  
 4           *11.*

5           (2) *COVERED PERILS.*—*The term “covered per-*  
 6           *ils” means the natural disaster perils under section 5.*

7           (3) *COVERED PURCHASER.*—*The term “covered*  
 8           *purchaser” means—*

9                   (A) *with respect to reinsurance coverage*  
 10                  *made available under a contract under section 6,*  
 11                  *the eligible State-operated insurance or reinsur-*  
 12                  *ance program that purchases such coverage; and*

13                  (B) *with respect to reinsurance coverage*  
 14                  *made available under a contract under section 7,*  
 15                  *the purchaser of the contract auctioned under*  
 16                  *such section or any subsequent holder or holders*  
 17                  *of the contract.*

18           (4) *DISASTER AREA.*—*The term “disaster area”*  
 19           *means a geographical area, with respect to which—*

20                   (A) *a covered peril specified in section 5 has*  
 21                   *occurred; and*

22                   (B) *a declaration that a major disaster ex-*  
 23                   *ists, as a result of the occurrence of such peril—*

24                           (i) *has been made by the President of*  
 25                           *the United States; and*

1                   (ii) is in effect.

2                   (5) *ELIGIBLE LOSSES.*—The term “eligible  
3                   losses” means losses in excess of the sustained and re-  
4                   tained losses, as defined by the Secretary after con-  
5                   sultation with the Commission.

6                   (6) *ELIGIBLE STATE PROGRAM.*—The term “eli-  
7                   gible State program” means a State program that,  
8                   pursuant to section 6(a), is eligible to purchase rein-  
9                   surance coverage made available through contracts  
10                  under section 6.

11                  (7) *PRICE GOUGING.*—The term “price gouging”  
12                  means the providing of any consumer good or service  
13                  by a supplier for a price that the supplier knows or  
14                  has reason to know is greater, by at least the percent-  
15                  age set forth in a State law or regulation prohibiting  
16                  such act (notwithstanding any real cost increase due  
17                  to any attendant business risk and other reasonable  
18                  expenses that result from the major disaster involved),  
19                  than the price charged by the supplier for such con-  
20                  sumer good or service immediately before the disaster.

21                  (8) *QUALIFIED LINES.*—The term “qualified  
22                  lines” means lines of insurance coverage for which  
23                  losses are covered under section 4 by reinsurance cov-  
24                  erage under this Act.

1           (9) *REINSURANCE COVERAGE*.—*The term “rein-*  
 2           *surance coverage under this Act” includes coverage*  
 3           *under contracts made available under sections 6 and*  
 4           *7.*

5           (10) *SECRETARY*.—*The term “Secretary” means*  
 6           *the Secretary of the Treasury.*

7           (11) *STATE*.—*The term “State” means the States*  
 8           *of the United States, the District of Columbia, the*  
 9           *Commonwealth of Puerto Rico, the Commonwealth of*  
 10          *the Northern Mariana Islands, Guam, the Virgin Is-*  
 11          *lands, American Samoa, and any other territory or*  
 12          *possession of the United States.*

13 **SEC. 13. REGULATIONS.**

14          *The Secretary shall issue any regulations necessary to*  
 15          *carry out the program for reinsurance coverage under this*  
 16          *Act.*

17 **SEC. 14. TERMINATION.**

18          (a) *IN GENERAL*.—*Except as provided in subsection*  
 19          (i), *the Secretary may not provide any reinsurance cov-*  
 20          *erage under this Act covering any period after the expira-*  
 21          *tion of the 10-year period beginning on the date of the en-*  
 22          *actment of this Act.*

23          (b) *EXTENSION*.—*If upon the expiration of the period*  
 24          *under subsection (a) the Secretary, in consultation with the*  
 25          *Commission, determines that continuation of the program*

1 *for reinsurance coverage under this Act is necessary to*  
 2 *carry out the purpose of this Act under section 3(b) because*  
 3 *of insufficient growth of capacity in the private home-*  
 4 *owners' insurance market, the Secretary shall continue to*  
 5 *provide reinsurance coverage under this Act until the expi-*  
 6 *ration of the 5-year period beginning upon the expiration*  
 7 *of the period under subsection (a).*

8       (c) *REPEAL.*—*Effective upon the date that reinsurance*  
 9 *coverage under this Act is no longer available or in force*  
 10 *pursuant to subsection (a) or (b), this Act (except for this*  
 11 *section) is repealed.*

12       (d) *DEFICIT REDUCTION.*—*The Secretary shall cover*  
 13 *into the General Fund of the Treasury any amounts re-*  
 14 *maining in the Fund under section 10 upon the repeal of*  
 15 *this Act.*

16 **SEC. 15. ANNUAL STUDY OF COST AND AVAILABILITY OF**  
 17 **DISASTER INSURANCE AND PROGRAM NEED.**

18       (a) *IN GENERAL.*—*The Secretary shall, on an annual*  
 19 *basis, conduct a study and submit to the Congress a report*  
 20 *on the cost and availability of homeowners' insurance for*  
 21 *losses resulting from catastrophic natural disasters covered*  
 22 *by the reinsurance program under this Act.*

23       (b) *CONTENTS.*—*Each annual study under this section*  
 24 *shall determine and identify, on an aggregate basis—*

1           (1) *for each State or region, the capacity of the*  
 2           *private homeowners' insurance market with respect to*  
 3           *coverage for losses from catastrophic natural disasters;*

4           (2) *for each State or region, the percentage of*  
 5           *homeowners who have such coverage, the disasters cov-*  
 6           *ered, and the average cost of such coverage;*

7           (3) *for each State or region, the progress that*  
 8           *private reinsurers and capital markets have made in*  
 9           *providing reinsurance for such homeowners' insur-*  
 10          *ance;*

11          (4) *for each State or region, the effects of the*  
 12          *Federal reinsurance program under this Act on the*  
 13          *availability and affordability of such insurance; and*

14          (5) *the appropriate time for termination of the*  
 15          *Federal reinsurance program under this Act.*

16          (c) *TIMING.—Each annual report under this section*  
 17          *shall be submitted not later than March 30 of the year after*  
 18          *the year for which the study was conducted.*

19          (d) *COMMENCEMENT OF REPORTING REQUIREMENT.—*  
 20          *The Secretary shall first submit an annual report under*  
 21          *this section 2 years after the date of the enactment of this*  
 22          *Act.*

23       **SEC. 16. GAO STUDY OF HURRICANE RELATED FLOODING.**

24          (a) *IN GENERAL.—The Comptroller General of the*  
 25          *United States shall conduct a study of the availability and*

1 *adequacy of flood insurance coverage for losses to residences*  
2 *and other properties caused by hurricane-related flooding.*

3 (b) *CONTENTS.—The study under this section shall de-*  
4 *termine and analyze—*

5 (1) *the frequency and severity of hurricane-re-*  
6 *lated flooding during the last 20 years in comparison*  
7 *with flooding that is not hurricane-related;*

8 (2) *the differences between the risks of flood-re-*  
9 *lated losses to properties located within the 100-year*  
10 *floodplain and those located outside of such flood-*  
11 *plain;*

12 (3) *the extent to which insurance coverage re-*  
13 *ferred to in subsection (a) is available for properties*  
14 *not located within the 100-year floodplain;*

15 (4) *the advantages and disadvantages of making*  
16 *such coverage for such properties available under the*  
17 *national flood insurance program;*

18 (5) *appropriate methods for establishing pre-*  
19 *miums for insurance coverage under such program for*  
20 *such properties that, based on accepted actuarial and*  
21 *rate making principles, cover the full costs of pro-*  
22 *viding such coverage;*

23 (6) *appropriate eligibility criteria for making*  
24 *flood insurance coverage under such program avail-*  
25 *able for properties that are not located within the*

1       100-year floodplain or within a community partici-  
2       pating in the national flood insurance program;

3           (7) the appropriateness of the existing  
4       deductibles for all properties eligible for insurance  
5       coverage under the national flood insurance program,  
6       including the standard and variable deductibles for  
7       pre-FIRM and post-FIRM properties, and whether a  
8       broader range of deductibles should be established;

9           (8) income levels of policyholders of insurance  
10      made available under the national flood insurance  
11      program whose properties are pre-FIRM subsidized  
12      properties; and

13          (9) the number of homes that are not primary  
14      residences that are insured under the national flood  
15      insurance program and are pre-FIRM subsidized  
16      properties.

17      (c) *CONSULTATION WITH FEMA.*—In conducting the  
18      study under this section, the Comptroller General shall con-  
19      sult with the Director of the Federal Emergency Manage-  
20      ment Agency.

21      (d) *REPORT.*—The Comptroller General shall complete  
22      the study under this section and submit a report to the Con-  
23      gress regarding the findings of the study, not later than 5  
24      months after the date of the enactment of this Act.