

106TH CONGRESS  
1ST SESSION

# H. R. 481

To provide for a Federal program of insurance against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1999

Mrs. MINK of Hawaii introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on Science, 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 provide for a Federal program of insurance against the risk of catastrophic earthquakes, volcanic eruptions, and hurricanes, and for other purposes.

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

3       **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act shall be cited as the  
5       “Earthquake, Volcanic Eruption, and Hurricane Hazards  
6       Insurance Act of 1999”.

7       (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title and table of contents.

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Sec. 3. Definitions.

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- Sec. 102. Earthquake, Volcanic Eruption, and Hurricane Loss Mitigation Advisory Committee.
- Sec. 103. Establishment of criteria for loss-reduction measures.
- Sec. 104. Self-Sustaining Mitigation Fund.
- Sec. 105. State implementation of loss-reduction measures.
- Sec. 106. Requirement to purchase primary insurance.
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#### TITLE II—PRIMARY INSURANCE PROGRAM

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- Sec. 203. Terms and limitations of insurance coverage.
- Sec. 204. Establishment of actuarial premium rates.
- Sec. 205. Chargeable premium rates.
- Sec. 206. Insurance mitigation incentives.
- Sec. 207. Earthquake, Volcanic Eruption, and Hurricane Insurance and Reinsurance Advisory Committee.
- Sec. 208. Residential Property Insurance Fund.
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#### TITLE III—NATIONAL EARTHQUAKE, VOLCANIC ERUPTION, AND HURRICANE EXCESS LOSS REINSURANCE PROGRAM

- Sec. 301. Reinsurance program.
- Sec. 302. Lines of insurance.
- Sec. 303. Rates.
- Sec. 304. Reinsurance contracts.
- Sec. 305. Reinsurance Fund.
- Sec. 306. Borrowing from Treasury.

### 1 **SEC. 2. FINDINGS.**

2       The Congress finds that—

- 3           (1) the catastrophic and unpredictable nature
- 4           of earthquakes, volcanic eruptions, and hurricanes
- 5           prevent individual private insurers from offering the
- 6           necessary insurance against these perils without the
- 7           participation of the Federal Government;

1           (2) in the absence of an adequate system for in-  
2           suring against losses from earthquakes, volcanic  
3           eruptions, and hurricanes, the Federal Government  
4           and State governments will bear excessive and avoid-  
5           able costs of disaster relief and the commerce and  
6           economy of the Nation would be seriously desta-  
7           bilized;

8           (3) the existing systems of private insurance,  
9           reinsurance, and government disaster relief are inad-  
10          equate and should be improved and better coordi-  
11          nated;

12          (4) a reasonable method of providing insurance  
13          against such losses is to create a Federal earth-  
14          quake, volcanic eruption, and hurricane insurance  
15          and reinsurance program, to assist in making insur-  
16          ance against such disasters widely available and af-  
17          fordable to the general public; and

18          (5) in providing such insurance, the Federal  
19          Government should work constructively with the  
20          States and localities to assist and require, if appro-  
21          priate, the development, adoption, and enforcement  
22          of hazard reduction measures, including building  
23          codes, land-use planning, and strengthening of new  
24          and existing structures.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “additional losses” means claim  
4 and loss adjustment expense payments for earth-  
5 quake, volcanic eruption, and hurricane coverage  
6 issued pursuant to title II that exceed the accumu-  
7 lated amounts in the Residential Property Insurance  
8 Fund.

9 (2) The term “alien insurer” means an insurer  
10 or reinsurer organized or incorporated in a country  
11 other than the United States.

12 (3) The term “critical facilities vulnerable to  
13 hurricanes” means schools and structures essential  
14 to emergency services necessary for post hurricane  
15 recovery (including hospitals, fire and police facili-  
16 ties, temporary shelters, and emergency operating  
17 and preparedness centers) that—

18 (A) have unreinforced masonry bearing  
19 walls, tilt-up construction, nonductile concrete  
20 frame construction, or other construction, as  
21 determined by the Director, that makes them  
22 susceptible to damage from hurricanes; and

23 (B) are located in hurricane zones within  
24 hurricane-prone States.

25 (4) The term “Director” means the Director of  
26 the Federal Emergency Management Agency.

1           (5) The term “earthquake” means any shaking  
2           or trembling of the crust of the earth caused by un-  
3           derground seismic forces or by breaking and shifting  
4           of rock beneath the surface.

5           (6) The term “earthquake, volcanic eruption,  
6           and hurricane coverage” means insurance issued  
7           pursuant to title II.

8           (7) The term “earthquake-prone State” means  
9           a State determined by the Director pursuant to sec-  
10          tion 101 to have an exposure to the earthquake  
11          peril.

12          (8) The term “Federal agency” means any de-  
13          partment, agency, corporation, or other instrumen-  
14          tality of the executive branch of the Federal Govern-  
15          ment, and includes the Federal National Mortgage  
16          Association and the Federal Home Loan Mortgage  
17          Corporation.

18          (9) The term “federally related mortgage loan”  
19          has the meaning given the term in section 3(1) of  
20          the Real Estate Settlement Procedures Act of 1974,  
21          except that the term does not include any loan de-  
22          scribed in subparagraph (B)(iv) of such section.

23          (10) The term “fires associated with an earth-  
24          quake” means any fire proximately caused by an  
25          earthquake.

1           (11) The term “fires associated with a volcanic  
2           eruption” means any fire proximately caused by a  
3           volcanic eruption.

4           (12) The term “hurricane-prone State” means  
5           a State determined by the Director pursuant to sec-  
6           tion 101 to have an exposure to hurricane peril.

7           (13) The term “hurricane zone” means an area  
8           within a State identified and classified by the Direc-  
9           tor under section 101(a) as subject to major hurri-  
10          cane risk.

11          (14) The term “Insurance and Reinsurance Ad-  
12          visory Committee” means the Earthquake, Volcanic  
13          Eruption, and Hurricane Insurance and Reinsurance  
14          Advisory Committee established under section 207.

15          (15) The term “Insurance Fund” means the  
16          Residential Property Insurance Fund established  
17          under section 208.

18          (16) The term “insurance industry” means all  
19          private insurers and private reinsurers.

20          (17) The term “large building” means any non-  
21          residential structure that has more than 1 story or  
22          more than 5,000 square feet per story.

23          (18) The term “Loss Mitigation Advisory Com-  
24          mittee” means the Earthquake, Volcanic Eruption,

1 and Hurricane Loss Mitigation Advisory Committee  
2 established under section 102.

3 (19) The term “loss-reduction criteria” means  
4 the criteria for earthquake, volcanic eruption, and  
5 hurricane loss mitigation established by the Director  
6 under section 103.

7 (20) The term “Primary Insurance Program”  
8 means the national earthquake, volcanic eruption,  
9 and hurricane insurance program under title II.

10 (21) The terms “private insurer” and “private  
11 reinsurer” mean any insurer or reinsurer that is (A)  
12 licensed or admitted to write property and casualty  
13 insurance or reinsurance within a State, or (B) is a  
14 branch of an alien insurer or reinsurer that is en-  
15 tered through and licensed by a State to conduct in-  
16 surance or reinsurance business. In the case of an  
17 insurance exchange or group of unincorporated un-  
18 derwriters, the term means an underwriting syn-  
19 dicate, notwithstanding the licensed or admitted sta-  
20 tus of the insurance exchange or group of unincor-  
21 porated underwriters.

22 (22) The term “Reinsurance Fund” means the  
23 Reinsurance Fund established under section 305.

24 (23) The term “Reinsurance Program” means  
25 the national earthquake, volcanic eruption, and hur-

1       ricane excess loss reinsurance program under title  
2       III.

3               (24) The term “residential property” means  
4       any (A) 1- to 4-family residential structure (includ-  
5       ing mobile or manufactured homes) and the personal  
6       property therein, and (B) personal property of occu-  
7       pants of residential structures (including condomin-  
8       iums, cooperatives, and apartment structures).

9               (25) The term “residential property insurance  
10       coverage” means policies, riders, or endorsements of  
11       insurance that provide indemnity, in whole or in  
12       part, for the loss, destruction, or damage of residen-  
13       tial property and other eligible property as deter-  
14       mined by the Director.

15              (26) The term “seismically hazardous critical  
16       facilities” means schools and structures essential to  
17       emergency services necessary for post earthquake re-  
18       covery (including hospitals, fire and police facilities,  
19       temporary shelters, and emergency operating and  
20       preparedness centers) that—

21                   (A) have unreinforced masonry bearing  
22                   walls, tilt-up construction, or nonductile con-  
23                   crete frame construction; and

24                   (B) are located in seismic zones within  
25                   earthquake-prone States.



1           (27) The term “Self-Sustaining Mitigation  
2 Fund” means the Fund established under section  
3 104.

4           (28) The term “seismic zone” means an area  
5 within a State identified and classified by the Direc-  
6 tor under section 101(a) as subject to major seismic  
7 risk.

8           (29) The term “tsunami” means an ocean wave  
9 generated by underwater disturbances in the Earth’s  
10 crust, primarily earthquakes and submarine volcanic  
11 eruptions.

12           (30) The term “volcanic eruption” means the  
13 expulsion, as a result of natural causes, of molten  
14 rock, rock fragments, gases, ashes, mud, lava flows,  
15 and other natural substances through an opening in  
16 the crust of the Earth.

17           (31) The term “volcanic eruption-prone State”  
18 means a State determined by the Director pursuant  
19 to section 101 to have an exposure to the volcanic  
20 eruption peril.

21           (32) The term “volcanic zone” means an area  
22 within a State identified and classified by the Direc-  
23 tor under section 101(a) as subject to major volcanic  
24 eruption risk.

1 **TITLE I—PARTICIPATION BY**  
2 **STATES IN ADOPTION OF HAZ-**  
3 **ARD REDUCTION MEASURES**

4 **SEC. 101. IDENTIFICATION OF EARTHQUAKE-PRONE, VOL-**  
5 **CANIC ERUPTION-PRONE, AND HURRICANE-**  
6 **PRONE STATES.**

7 (a) INITIAL IDENTIFICATION OF STATES.—The Di-  
8 rector, in consultation with the United States Geological  
9 Survey, other relevant Federal entities, and seismic, vol-  
10 canic, and meteorological experts in the private sector,  
11 shall identify States having an exposure to earthquake  
12 perils, States having an exposure to volcanic eruption  
13 peril, and States having an exposure to hurricane peril,  
14 which shall include any State subject to major or moderate  
15 seismic, volcanic eruption, or hurricane risk, as appro-  
16 priate. The Director shall also identify and establish any  
17 areas, within such States, that are subject to major seis-  
18 mic, volcanic eruption, or hurricane risk as seismic zones,  
19 volcanic zones, or hurricane zones, as appropriate. The Di-  
20 rector shall identify such States and zones before the expi-  
21 ration of the 1-year period beginning on the date of the  
22 enactment of this Act, and shall cause a listing of such  
23 States and zones to be published in the Federal Register  
24 and in widely circulated local newspapers in the applicable  
25 States before the expiration of such 1-year period.

1       (b) FINAL NOTIFICATION.—Each State identified  
2 under subsection (a) shall be considered for purposes of  
3 this Act to be an earthquake-prone, volcanic eruption-  
4 prone, or hurricane-prone State, as appropriate, upon the  
5 expiration of the 6-month period beginning upon the expi-  
6 ration of the period under subsection (a). The Director  
7 shall notify the chief executive officer of each State identi-  
8 fied under subsection (a) in writing, before the expiration  
9 of such 6-month period, that the State is an earthquake-  
10 prone, volcanic eruption-prone, or hurricane-prone State,  
11 as appropriate, for purposes of this Act.

12       (c) ONGOING IDENTIFICATION AND NOTIFICATION.—  
13 Based upon any additional seismic, volcanic, and meteorolo-  
14 gical information that from time to time becomes avail-  
15 able, the Director may identify States (not identified  
16 under subsection (a)) having an exposure to earthquake,  
17 volcanic eruption, or hurricane perils. Any such States  
18 shall be considered to be an earthquake-prone, volcanic  
19 eruption-prone, or hurricane-prone State, as appropriate,  
20 for purposes of this Act upon the notification of the chief  
21 executive officer of the State, in writing, of the identifica-  
22 tion of the State as such a State.

23       (d) APPEAL.—Any State aggrieved by a final deter-  
24 mination as an earthquake-prone, volcanic eruption-prone,  
25 or hurricane-prone State pursuant to subsection (b) or (c),

1 may, after exhausting administrative remedies, appeal  
2 such determination to any United States district court for  
3 a district located within the State, not more than 60 days  
4 after receipt of notice of such determination. The scope  
5 of review by the court shall be as provided under chapter  
6 7 of title 5, United States Code. During the pendency of  
7 any such litigation, all determinations of the Director shall  
8 be effective and final for the purposes of this title unless  
9 stayed by the court for good cause shown.

10 **SEC. 102. EARTHQUAKE, VOLCANIC ERUPTION, AND HURRI-**  
11 **CANE LOSS MITIGATION ADVISORY COMMIT-**  
12 **TEE.**

13 (a) ESTABLISHMENT.—There is established an inde-  
14 pendent advisory committee within the executive branch  
15 to be known as the Earthquake, Volcanic Eruption, and  
16 Hurricane Loss Mitigation Advisory Committee (in this  
17 section referred to as the “Committee”). The Committee,  
18 its members, and its functions shall be separate from the  
19 Insurance and Reinsurance Advisory Committee estab-  
20 lished under section 207. To the extent not contradicted  
21 by the provisions of this section, the Committee shall be  
22 subject to the provisions of the Federal Advisory Commit-  
23 tee Act.

24 (b) MEMBERSHIP.—

1           (1) APPOINTED MEMBERS.—The Committee  
2       shall be composed of 7 members appointed by the  
3       President, by and with the advice and consent of the  
4       Senate. The members shall be chosen from among  
5       citizens of the United States who are respected ex-  
6       perts in the fields of earthquake, volcanic eruption,  
7       and hurricane loss mitigation, who shall include—

8           (A) 1 individual who is employed by a  
9       State government as an emergency planner;

10          (B) 1 individual who is knowledgeable re-  
11       garding local community building codes;

12          (C) 1 individual who is employed as a seis-  
13       mic engineer;

14          (D) 1 individual who is employed as an ex-  
15       pert in the field of volcanic eruptions; and

16          (E) 1 individual who is employed as an ex-  
17       pert in the field of hurricanes.

18       (2) EX OFFICIO MEMBER.—Notwithstanding  
19       paragraph (1), the Chairman of the Insurance and  
20       Reinsurance Advisory Committee under section 207  
21       shall serve as an ex officio member of the Committee  
22       under this section.

23       (c) VACANCIES.—A vacancy in the Committee shall  
24       be filled in the manner in which the original appointment  
25       was made.

1 (d) CHAIRPERSON.—The President shall designate a  
2 chairperson of the Committee from among members se-  
3 lected for appointment to the Committee.

4 (e) SELECTION.—Not later than 180 days after the  
5 date of the enactment of this Act, the President shall sub-  
6 mit to the Senate nominations for appointment to the  
7 Committee.

8 (f) FUNCTIONS OF THE COMMITTEE.—The Commit-  
9 tee shall review the loss reduction criteria (including the  
10 specific loss-reduction measures) established under section  
11 103. Not later than 180 days after receiving the draft of  
12 the loss-reduction criteria under section 103(a)(3), the  
13 Committee shall submit to the Director written comments  
14 and recommendations for any changes to the criteria.

15 (g) RESPONSIBILITIES OF DIRECTOR.—The Director  
16 shall fully cooperate with the Committee and provide the  
17 Committee with access to personnel and information and  
18 may request assistance from relevant Federal agencies (in-  
19 cluding the National Institute of Standards and Tech-  
20 nology) as the Committee considers necessary to carry out  
21 its functions.

22 **SEC. 103. ESTABLISHMENT OF CRITERIA FOR LOSS-REDUC-**  
23 **TION MEASURES.**

24 (a) DEVELOPMENT OF CRITERIA.—

1           (1) IN GENERAL.—On the basis of research car-  
2       ried out under this title, the Director shall develop  
3       comprehensive loss-reduction criteria for State and  
4       local land use and management ordinances, building  
5       codes, and other loss-reduction measures consistent  
6       with the requirements under subsection (b). The Di-  
7       rector shall periodically update such criteria to re-  
8       flect technical advances designed to reduce losses  
9       from earthquakes, volcanic eruptions, and hurri-  
10      canes.

11          (2) COORDINATION.—The Director shall de-  
12      velop the loss-reduction criteria in coordination and  
13      consistent with the earthquake hazards reduction  
14      program under title I of this Act and the Robert T.  
15      Stafford Disaster Relief and Emergency Assistance  
16      Act (and Executive Order 12699 of January 5,  
17      1990). In developing the loss reduction criteria, the  
18      Director shall consult other affected Federal entities  
19      (including the National Institute of Standards and  
20      Technology), the Building Seismic Safety Council,  
21      the Interagency Committee on Seismic Safety in  
22      Construction, the National Oceanic and Atmospheric  
23      Administration, representatives of State and local  
24      governments, regional earthquake, volcanic eruption,  
25      and hurricane preparedness organizations, model

1 building code organizations, and insurance industry  
2 groups.

3 (3) SUBMISSION OF DRAFT TO ADVISORY COM-  
4 MITTEE.—Not later than the expiration of the 9-  
5 month period beginning on the date of the enact-  
6 ment of this Act, the Director shall submit a draft  
7 of the loss-reduction criteria to the Loss Mitigation  
8 Advisory Committee established under section 102.  
9 Before issuing any final regulations under para-  
10 graph (4), the Director shall consider any rec-  
11 ommendations made by such Advisory Committee re-  
12 garding the draft criteria.

13 (4) REGULATIONS.—Not later than the expira-  
14 tion of the 18-month period beginning on the date  
15 of the enactment of this Act, the Director shall issue  
16 regulations establishing the loss-reduction criteria  
17 under this section, subject to the provisions of sub-  
18 chapter II of chapter 5 of title 5, United States  
19 Code. In issuing final regulations under this para-  
20 graph, the Director shall cause to be published in  
21 the Federal Register a description of any differences  
22 between the recommendations of the Loss Mitigation  
23 Advisory Committee and the final regulations (in-  
24 cluding the applicability of loss-reduction measures  
25 to States and localities) developed by the Director.



1       The description shall contain, for each such dif-  
2       ference, an explanation of why the recommendations  
3       of the Advisory Committee were not included in the  
4       final regulations.

5       (b) CONTENT OF CRITERIA.—The Federal loss-re-  
6       duction criteria established under this section shall include  
7       measures for the reduction of losses from future earth-  
8       quakes, volcanic eruptions, and hurricanes, as follows:

9               (1) MANDATORY INCLUSION.—The Director  
10       shall include in the loss-reduction criteria the follow-  
11       ing loss-reduction measures:

12               (A) Minimum seismic and hurricane build-  
13       ing standards applicable to new residential  
14       property and other buildings located in earth-  
15       quake-prone States and hurricane-prone States.

16               (B) Community-based building codes appli-  
17       cable to new residential property, which shall  
18       meet or exceed any minimum provisions relat-  
19       ing to seismic or hurricane hazards contained in  
20       (i) the most recent edition of the National  
21       Building Code, (ii) the most recent edition of  
22       the Standard Building Code, or (iii) the most  
23       recent edition of the Uniform Building Code.

24               (C) Community-based plumbing codes or  
25       standards applicable to new residential property

1           which shall meet or exceed any minimum provi-  
2           sions contained in (i) the National Standard  
3           Plumbing Code and the A40 Safety Standards  
4           of the American National Standards Institute,  
5           or (ii) such other similar codes or standards as  
6           may be appropriate, as determined by the Di-  
7           rector.

8           (2) DISCRETIONARY INCLUSION.—Consistent  
9           with reports submitted to Congress pursuant to sec-  
10          tion 8(a)(2) of the Earthquake Hazards Reduction  
11          Act of 1977 and section 947 of the Cranston-Gon-  
12          zalez National Affordable Housing Act, the Director  
13          shall consider and may include in the loss-reduction  
14          criteria established under this section, any of the fol-  
15          lowing additional loss-reduction measures:

16                (A) Community-based building codes which  
17                contain minimum seismic or hurricane provi-  
18                sions (including restrictions on new  
19                unreinforced masonry construction) for new res-  
20                idential property that is located in a seismic or  
21                hurricane zone, as appropriate, not currently  
22                covered by any of the building codes referred to  
23                in paragraph (1)(B) but identified by the Direc-  
24                tor as being located in earthquake-prone or hur-  
25                ricane-prone States, as appropriate.

1           (B) Geotechnical techniques to minimize  
2           the effects of ground failures for new large  
3           buildings in high-risk fault, landslide, site am-  
4           plification, and liquefaction zones identified in  
5           earthquake-prone States and, to the extent  
6           practicable and cost-effective, application of the  
7           same geotechnical techniques to existing large  
8           buildings in the same zones.

9           (C) Measures to control construction of  
10          buildings in high-risk fault, landslide, site am-  
11          plification, liquefaction zones, and volcanic  
12          zones identified in earthquake-prone or volcanic  
13          eruption-prone States.

14          (D) To the extent practicable, retrofitting  
15          of seismically hazardous critical facilities and  
16          critical facilities vulnerable to hurricanes.

17          (E) Securing of building parapets and ex-  
18          ternal ornamentations of existing buildings lo-  
19          cated in earthquake-prone States or hurricane-  
20          prone States.

21          (F) Bracing of gas water heaters and other  
22          measures to reduce the risk of earthquake-in-  
23          duced fires in residential property located in  
24          earthquake-prone States.

1           (G) Inspections before transfer of residen-  
2           tial property in earthquake-prone States and  
3           hurricane-prone States (and provision to buyers  
4           of inspection reports) regarding the adequacy of  
5           the anchoring of the residential structure to the  
6           foundation, the presence of unbraced or braced  
7           cripple walls for woodframe structures, and the  
8           bracing of gas water heaters to the walls for all  
9           structures, as appropriate based on risk of  
10          damage by earthquakes or hurricanes.

11          (3) RECOMMENDED MEASURES.—The Director  
12          may recommend, in the loss-reduction criteria, any  
13          of the following earthquake and hurricane prepared-  
14          ness and planning measures:

15               (A) Expanded research and development  
16               by the National Institute of Standards and  
17               Technology and other government and private  
18               sector entities of new cost-effective building  
19               technologies for new construction and retro-  
20               fitting of existing buildings.

21               (B) Educational and promotional cam-  
22               paigns to encourage additional voluntary miti-  
23               gation.

24               (C) Reward-based fiscal incentives, such as  
25               lower property tax assessments, no reassess-

1           ments for retrofitting which results in increased  
2           property values, or other tax incentives to en-  
3           courage use of state-of-the-art mitigation tech-  
4           nology.

5           (D) State or community-based efforts to  
6           assist low- and moderate-income households to  
7           purchase needed earthquake, volcanic eruption,  
8           or hurricane insurance and to adopt cost-effec-  
9           tive loss-reduction measures.

10          (E) Improvements in long-term earthquake  
11          and hurricane construction practices, including  
12          the training and licensing of earthquake and  
13          hurricane design professionals as well as public  
14          and private building inspectors.

15          (F) Institutional support, training in  
16          earthquake and hurricane engineering tech-  
17          nology and other disciplines, and staffing to en-  
18          sure compliance with the community-based  
19          building codes.

20          (G) Minimizing damage to public utilities,  
21          including sewer, gas, electrical and water sys-  
22          tems, and other lifelines.

23          (c) STANDARD.—Any mitigation measures included  
24          in the loss-reduction criteria established under this section  
25          shall be practical, cost-effective, workable, and directly re-

1 lated to the risk of loss from earthquakes, volcanic erup-  
2 tions, or hurricanes in areas where residential property is  
3 located.

4 (d) TECHNICAL ASSISTANCE.—The Director, in con-  
5 sultation with the National Institute of Standards and  
6 Technology, shall coordinate with and provide technical  
7 assistance to States, interstate, and local officials and  
8 agencies to encourage adoption and enforcement of State  
9 and local actions that incorporate and support the loss-  
10 reduction measures and preparedness goals developed by  
11 the Director under this section.

12 **SEC. 104. SELF-SUSTAINING MITIGATION FUND.**

13 (a) IN GENERAL.—A percentage of the annual earth-  
14 quake, volcanic eruption, and hurricane insurance and ex-  
15 cess reinsurance premiums collected under the Primary  
16 Insurance program under title II, as the Director shall  
17 designate, shall be deposited in a separate fund to be  
18 known as the Self-Sustaining Mitigation Fund. The per-  
19 centage may not exceed 5 percent, unless the Director de-  
20 termines that the amounts in the Insurance Fund are suf-  
21 ficient to provide for any probable expected losses from  
22 future earthquakes, volcanic eruptions, or hurricanes. In-  
23 terest on amounts in the Fund shall be credited to the  
24 Fund.

1       (b) USE.—Amounts in the Self-Sustaining Mitigation  
2 Fund shall be available, to the extent provided in appro-  
3 priations Acts, to the Director to provide assistance to  
4 support the earthquake, volcanic eruption, and hurricane  
5 hazard reduction activities, as follows:

6           (1) Assistance to States under section 105(c).

7           (2) Assistance to provide earthquake, volcanic  
8 eruption, and hurricane education pursuant to sub-  
9 section (c).

10          (3) Assistance for research and development  
11 supported by the National Institute of Standards  
12 and Technology on construction techniques to reduce  
13 costs of new construction and retrofitting of existing  
14 buildings.

15          (4) Low-interest loans or grants for the retro-  
16 fitting of seismically hazardous critical facilities and  
17 critical facilities vulnerable to hurricanes.

18       (c) EDUCATION PROGRAM.—In coordination with the  
19 educational programs authorized under title I, the Direc-  
20 tor shall provide assistance under this section to support  
21 programs educating the general public on the national di-  
22 mensions of the seismic, volcanic eruption, and hurricane  
23 risk and on methods for homeowners to reduce the haz-  
24 ards resulting from future earthquakes and hurricanes.

1 **SEC. 105. STATE IMPLEMENTATION OF LOSS-REDUCTION**  
2 **MEASURES.**

3 (a) DEFINITION OF COMPLIANCE STATE.—An earth-  
4 quake-prone, volcanic eruption-prone, or hurricane-prone  
5 State shall be considered a compliance State for purposes  
6 of this title if—

7 (1) before the expiration of the 2-year period  
8 beginning upon the promulgation of final regulations  
9 under section 103 establishing loss-reduction  
10 criteria—

11 (A) the counties and municipalities located  
12 in all seismic, volcanic, and hurricane zones  
13 within the State have adopted and are enforcing  
14 minimum applicable mitigation measures re-  
15 quired under the loss-reduction criteria; and

16 (B) the chief executive officer of the State  
17 has designated an administrative authority to  
18 coordinate the development and enforcement of  
19 earthquake, volcanic eruption, and hurricane  
20 implementation plans for the State, which plans  
21 are equivalent to or exceed the loss-reduction  
22 criteria; and

23 (2) the State is certified under subsection (b)  
24 as a compliance State.

25 (b) DETERMINATION OF COMPLIANCE.—



1           (1) STATE SUBMISSION OF CERTIFICATION.—

2       Before the expiration of the 2-year period referred  
3       to in subsection (a)(1), each earthquake-prone, vol-  
4       canic eruption-prone, or hurricane-prone State shall  
5       submit a certification to the Director stating wheth-  
6       er the State has substantially adopted and is sub-  
7       stantially enforcing the applicable mitigation meas-  
8       ures under the loss-reduction criteria. In providing  
9       such certification, each State may consult with rel-  
10      evant private-sector accreditation and rating organi-  
11      zations approved by the Director. The Director shall  
12      issue regulations not later than 18 months after the  
13      date of the enactment of this Act describing the cri-  
14      teria to be used in making and reviewing such State  
15      certifications.

16           (2) REVIEW BY DIRECTOR.—The Director shall  
17      review each certification submitted under paragraph  
18      (1) to determine whether it is an accurate mani-  
19      festation of the submitting State’s substantial com-  
20      pliance with, and enforcement of, the applicable  
21      mitigation measures under the loss-reduction cri-  
22      teria. If the Director determines that the State cer-  
23      tification is substantially accurate and the State has  
24      adopted and is enforcing the applicable mitigation  
25      measures, the Director shall certify the State for

1 purposes of subsection (a). Using the criteria estab-  
2 lished under paragraph (1), the Director shall review  
3 the compliance with, and enforcement of, the appli-  
4 cable mitigation measures by each compliance State  
5 meeting the requirements of subsection (a) not less  
6 than once every 2 years and shall renew compliance  
7 certificates as appropriate.

8 (3) NONCOMPLIANCE STATES.—If an earth-  
9 quake-prone, volcanic eruption-prone, or hurricane-  
10 prone State fails to submit a certification under  
11 paragraph (1) or the Director determines under  
12 paragraph (1) or (2) that the State has submitted  
13 an inaccurate certification, has not adopted or en-  
14 forced minimum applicable mitigation measures, or  
15 has failed to have its compliance certification re-  
16 newed, the Director shall certify the State as a non-  
17 compliance State for purposes of this title and shall  
18 promptly prepare and publish proposed regulations  
19 setting forth the minimum mitigation measures ap-  
20 plicable to the State.

21 (4) REVIEW OF NONCOMPLIANCE.—A State cer-  
22 tified as a noncompliance State pursuant to para-  
23 graph (3) may at any time after such certification  
24 request the Director to revoke its noncompliance cer-

1       tification and to certify the State pursuant to para-  
2       graph (2).

3       (c) ASSISTANCE TO PROMOTE COMPLIANCE.—The  
4       Director shall provide assistance to each compliance State  
5       from amounts in the Self-Sustaining Mitigation Fund  
6       under section 104, to the extent that amounts for such  
7       assistance are made available under appropriations Acts.  
8       The amount of such assistance provided to each State  
9       shall be based on the State's need for hazard reduction  
10      as measured by the State's lack of preparedness efforts,  
11      the amount of earthquake, volcanic eruption, and hurri-  
12      cane insurance premiums collected in that State under the  
13      Primary Insurance Program, and the State's risk of fu-  
14      ture earthquakes, volcanic eruptions, and hurricanes. Such  
15      financial assistance shall be used to support the State's  
16      development and implementation of its mitigation plan, in-  
17      cluding education, enforcement, and mitigation economic  
18      incentives, such as low-interest loans for seismic retro-  
19      fitting.

20   **SEC. 106. REQUIREMENT TO PURCHASE PRIMARY**  
21       **INSURANCE.**

22       (a) CONNECTION TO FEDERALLY RELATED MORT-  
23      GAGE LOANS.—After the expiration of the 2-year period  
24      beginning upon the promulgation of final regulations  
25      under section 103 establishing loss-reduction criteria, no

1 federally related mortgage loan secured by residential  
2 property located in an earthquake-prone, volcanic erup-  
3 tion-prone, or hurricane-prone State may be made, in-  
4 creased, extended, or renewed unless the property securing  
5 the loan is covered by earthquake, volcanic eruption, and  
6 hurricane insurance coverage available under title II or  
7 equivalent insurance from a private insurer, in the amount  
8 required under section 203(a)(6). The Director shall de-  
9 termine, in cooperation with the appropriate Federal agen-  
10 cies, the methods by which such mortgagors shall be re-  
11 quired to present proof that they have obtained an insur-  
12 ance policy consistent with the provisions of this title.

13 (b) EXEMPTION FOR STATE PROPERTIES.—Notwith-  
14 standing the other provisions of this section, earthquake,  
15 volcanic eruption, and hurricane insurance coverage shall  
16 not be required on any State-owned property that is cov-  
17 ered under a State policy of self-insurance adequate in the  
18 determination of the Director. The Director shall publish  
19 and periodically revise a list of States to which this sub-  
20 section applies.

21 **SEC. 107. EFFECT OF NONCOMPLIANCE WITH STATE MITI-**  
22 **GATION PROGRAM.**

23 Each Federal agency or instrumentality responsible  
24 for the supervision, approval, regulation, or insuring any  
25 banks, savings and loans associations, or similar institu-

1 tions shall, by regulation, prohibit such institutions from  
2 making, increasing, extending, or renewing a federally re-  
3 lated mortgage loan secured by improved real estate or  
4 a mobile home located or to be located in an earthquake-  
5 prone, volcanic eruption-prone, or hurricane-prone State,  
6 if—

7 (1) the State has been determined to be a non-  
8 compliance State pursuant to section 105; and

9 (2) a presale inspection of the property securing  
10 the loan—

11 (A) indicates that the property does not  
12 meet the minimum mitigation measures applica-  
13 ble to the property under the loss-reduction cri-  
14 teria; or

15 (B) has not been conducted.

16 **SEC. 108. COORDINATION WITH OTHER PROGRAMS.**

17 In carrying out this Act, the Director shall consult  
18 with other departments and agencies of the Federal Gov-  
19 ernment, and with interstate, State, and local agencies  
20 having responsibilities regarding earthquakes, volcanic  
21 eruptions, and hurricanes to ensure that the programs of  
22 such agencies and the Primary Insurance Program under  
23 title II are mutually consistent.

1 **SEC. 109. REPORT TO CONGRESS.**

2       The Director shall submit an annual report under  
3 this section to the Congress, within 90 days after the end  
4 of each fiscal year. The report shall describe the activities  
5 carried out under this title and evaluate any progress  
6 achieved in such activities during the preceding fiscal year.

7 **SEC. 110. REGULATIONS.**

8       (a) DIRECTOR.—The Director may issue any regula-  
9 tions necessary to carry out this Act, pursuant to the pro-  
10 visions of subchapter II of chapter 5 of title 5, United  
11 States Code.

12       (b) FEDERAL AGENCIES.—Each Federal agency or  
13 instrumentality responsible for the supervision, approval,  
14 regulation, or insuring of banks, savings and loan associa-  
15 tions, or similar institutions, shall, in cooperation with the  
16 Director, issue any regulations necessary to implement the  
17 responsibilities of such agency under this Act, pursuant  
18 to the provisions of subchapter II of chapter 5 of title 5,  
19 United States Code.

20 **TITLE II—PRIMARY INSURANCE**  
21 **PROGRAM**

22 **SEC. 201. BASIC AUTHORITY AND PROGRAM ORGANIZA-**  
23 **TION.**

24       (a) ESTABLISHMENT.—To carry out the purposes of  
25 this Act, the Director shall establish and carry out a na-  
26 tional earthquake, volcanic eruption, and hurricane insur-

1   ance program to provide insurance against loss resulting  
2   from physical damage to or loss of real property or per-  
3   sonal property related thereto, in the United States, aris-  
4   ing from any earthquake, volcanic eruption, or hurricane,  
5   including any fire associated with a volcanic eruption.

6       (b) IMPLEMENTATION.—In carrying out the Primary  
7   Insurance Program under this title, the Director shall ar-  
8   range for participation, on other than a risk-sharing basis,  
9   by private insurers, insurance agents and brokers, insur-  
10   ance adjustment organizations, and other persons. The  
11   Director may take any actions reasonably necessary and  
12   appropriate to carry out this title, including the making  
13   of contracts, the employment and compensation of per-  
14   sons, and the acquisition of real and personal property.

15       (c) INSURANCE PRACTICES.—Any actions of the Di-  
16   rector under this title shall be consistent with standard  
17   insurance practices and generally accepted accounting, ac-  
18   tuarial, and underwriting principles.

19       (d) SUITS.—Any lawsuits by or against the Director  
20   (or employees of the Federal Emergency Management  
21   Agency) in connection with activities under this title shall  
22   be brought in the district court of the United States with  
23   jurisdiction over the action, except that any action by an  
24   insurer or reinsurer against the Director (or employees of  
25   the Federal Emergency Management Agency) shall be

1 brought in the United States District Court for the  
2 District of Columbia.

3 (e) PLAN OF OPERATION.—

4 (1) DEVELOPMENT.—The Director shall de-  
5 velop a plan of operation under this subsection to  
6 ensure the fair, reasonable, and equitable adminis-  
7 tration of the Insurance Fund, the Reinsurance  
8 Fund, and other activities under this title and title  
9 III.

10 (2) CONTENTS.—The plan of operation shall set  
11 forth the specific policy and programmatic details  
12 for operating the Primary Insurance Program and  
13 the Reinsurance Program, and shall include—

14 (A) all guidelines, criteria, definitions,  
15 clarifications, and procedures necessary to carry  
16 out this title;

17 (B) procedures for implementing the miti-  
18 gation incentives under section 206; and

19 (C) standards for insurers to retain ex-  
20 pense allowances from premiums collected  
21 under this title.

22 (3) STUDY OF LOW-INCOME RATES.—In devel-  
23 oping the plan of operation, the Director shall con-  
24 sider options for charging less than actuarial rates  
25 for residential property occupied by low-income pol-



1        icyholders and may include in the plan any such op-  
2        tion the Director considers necessary, appropriate,  
3        and practicable, subject to the requirements under  
4        section 205(c).

5            (4) ESTABLISHMENT.—

6            (A) SUBMISSION OF DRAFT TO ADVISORY  
7        COMMITTEE.—Not later than the expiration of  
8        the 12-month period beginning on the date of  
9        the enactment of this Act, the Director shall  
10       submit a draft of the plan of operation to the  
11       Insurance and Reinsurance Advisory Committee  
12       established under section 207. Before issuing  
13       any proposed regulations under subparagraph  
14       (B), the Director shall consider any rec-  
15       ommendations made by such Advisory Commit-  
16       tee regarding the draft plan of operation.

17          (B) PROPOSED REGULATIONS.—Not later  
18       than the expiration of the 18-month period be-  
19       ginning on the date of the enactment of this  
20       Act, the Director shall issue proposed regula-  
21       tions establishing the plan of operation under  
22       this section, subject to the provisions of sub-  
23       chapter II of chapter 5 of title 5, United States  
24       Code. In issuing proposed regulations under  
25       this paragraph, the Director shall cause to be

1 published in the Federal Register a description  
2 of any differences between the recommendations  
3 of the Insurance and Reinsurance Advisory  
4 Committee and the final regulations (including  
5 the guidelines, criteria, definitions, clarifica-  
6 tions, and procedures under the plan) developed  
7 by the Director. The description shall contain,  
8 for each such difference, an explanation of why  
9 the recommendations of the Advisory Commit-  
10 tee were not included in the proposed regula-  
11 tions.

12 (C) COMMENTS.—After the regulations  
13 have been issued under subparagraph (B), the  
14 Director shall request comments from the In-  
15 surance and Reinsurance Advisory Committee  
16 regarding any changes to the regulations.

17 (D) SUBSEQUENT CHANGES.—Any  
18 changes to the plan of operation contained in  
19 final regulations shall be made pursuant to reg-  
20 ulations issued in the manner provided in sub-  
21 paragraphs (B) and (C).

22 **SEC. 202. SCOPE OF PROGRAM.**

23 (a) RESIDENTIAL PROPERTIES.—In carrying out the  
24 Primary Insurance Program, the Director shall make  
25 earthquake, volcanic eruption, and hurricane coverage

1 available only for residential property. The Director shall  
2 make such coverage available in earthquake-prone States,  
3 volcanic eruption-prone States, and hurricane-prone  
4 States.

5 (b) ADDITIONAL TYPES OF PROPERTIES.—If, on the  
6 basis of studies and investigations undertaken and carried  
7 out and information received or exchanged under section  
8 204, and such other information as may be necessary, the  
9 Director determines that it would be feasible to extend the  
10 Primary Insurance Program to cover other properties, the  
11 Director may recommend to Congress that earthquake,  
12 volcanic eruption, and hurricane coverage under this title  
13 be made available to cover any types and classes of—

- 14 (1) other properties in residential areas;  
15 (2) small business properties that are owned or  
16 leased and operated by small business concerns;  
17 (3) religious properties;  
18 (4) agricultural properties;  
19 (5) properties occupied by primary nonprofit or-  
20 ganizations; and  
21 (6) properties owned by State and local govern-  
22 ments and agencies thereof.

1 **SEC. 203. TERMS AND LIMITATIONS OF INSURANCE COV-**  
2 **ERAGE.**

3 (a) TERMS.—Pursuant to the plan of operation es-  
4 tablished under section 201 and after consultation with  
5 the Insurance and Reinsurance Advisory Committee, the  
6 Director shall establish, by regulation, the general terms  
7 and conditions of insurability for properties eligible for  
8 residential property insurance coverage under section 202.  
9 Such regulations shall meet the requirements of this sec-  
10 tion and may include—

11 (1) the type and locational classification of such  
12 eligible properties;

13 (2) the nature of damage that may be covered  
14 by such insurance;

15 (3) appropriate minimum premiums;

16 (4) appropriate loss-deductibles including vari-  
17 able deductibles based on the existence of loss-reduc-  
18 ing measures that affect the risk of loss;

19 (5) appropriate limits on coverage for each clas-  
20 sification of eligible properties;

21 (6) appropriate minimum coverage amounts  
22 pursuant to section 106(a) for each classification of  
23 eligible properties, which may not be less than the  
24 outstanding principal balance of the mortgage loan  
25 securing the property or the maximum coverage

1 limit for the property under paragraph (5), which-  
2 ever is less; and

3 (7) any other terms and limitations relating to  
4 such residential property insurance coverage that  
5 may be necessary to carry out the purposes of this  
6 title.

7 (b) LIMITATIONS.—Earthquake, volcanic eruption,  
8 and hurricane coverage under this title shall cover—

9 (1) any damage to covered eligible property  
10 proximately caused by—

11 (A) an earthquake, volcanic eruption, or  
12 hurricane;

13 (B) a tsunami associated with an earth-  
14 quake, volcanic eruption, or hurricane;

15 (C) a fire associated with a volcanic erup-  
16 tion; and

17 (2) coverage for debris removal and additional  
18 living expenses incurred as a result of direct damage  
19 to the premises by—

20 (A) earthquake, volcanic eruption, or hur-  
21 ricane;

22 (B) a tsunami associated with an earth-  
23 quake, volcanic eruption, or hurricane; and

24 (C) a fire associated with a volcanic erup-  
25 tion.

1 The coverage shall not include coverage for any fires asso-  
2 ciated with an earthquake.

3 (c) ELIGIBILITY OF COVERAGE.—Any private insurer  
4 issuing residential property insurance coverage in any  
5 earthquake-prone, volcanic eruption-prone, or hurricane-  
6 prone State may provide the coverage under this title, on  
7 behalf of the Federal Government, to residential property  
8 policyholders of the insurer. Any private insurer electing  
9 to participate in the Primary Insurance Program shall  
10 make coverage available to all residential property policy-  
11 holders of the insurer in earthquake-prone, volcanic erup-  
12 tion-prone, or hurricane-prone States. Any private insurer  
13 electing to purchase the excess reinsurance coverage pur-  
14 suant to title III shall make the coverage available, on be-  
15 half of the Federal Government, or at equivalent coverage  
16 and rates on their own behalf, to all residential property  
17 policyholders of the insurer.

18 **SEC. 204. ESTABLISHMENT OF ACTUARIAL PREMIUM**  
19 **RATES.**

20 (a) STUDIES AND ESTABLISHMENT OF RATES.—The  
21 Director may undertake and carry out such studies and  
22 investigations and receive and exchange such information  
23 as may be necessary to establish, and shall from time to  
24 time establish and prescribe, by regulation, on a State,  
25 territorial, or other appropriate basis, actuarial premium

1 rates for types of classes of property eligible for residential  
2 property insurance coverage and the terms and conditions  
3 under which such rates apply.

4 (b) ARRANGEMENTS FOR SERVICES.—In carrying out  
5 such studies, the Director shall consult with the Loss Mit-  
6 gation Advisory Committee and the Insurance and Rein-  
7 surance Advisory Committee and may enter into contracts,  
8 agreements, or other arrangements to utilize the services  
9 of the United States Geological Survey and other relevant  
10 Federal, State, and local governmental agencies, and other  
11 persons.

12 (c) CONSIDERATIONS.—The Director shall establish  
13 actuarial rates under this section based on—

14 (1) considerations of the risks involved,  
15 including—

16 (A) the severity and frequency of earth-  
17 quakes by seismic zone and States in which the  
18 insured property is located, including known  
19 differences in risks from active faults and  
20 known susceptibility to landslide, site amplifi-  
21 cation, and liquefaction;

22 (B) the risk of damage associated with a  
23 volcanic eruption by volcanic zone and States in  
24 which the insured property is located, including  
25 proximity to known lava flows;

1 (C) the severity and frequency of hurri-  
2 canes by hurricane zone and States in which  
3 the insured property is located;

4 (D) the value of the insured property;

5 (E) the age of the structures located on  
6 the insured property;

7 (F) the construction type of the structures  
8 located on the insured property, including  
9 woodframe, masonry, and masonry veneer;

10 (G) the architectural type of the structures  
11 located on the insured property, including soft  
12 first floor, box construction, and split level;

13 (H) earthquake or hurricane loss-reduction  
14 measures, including measures described in sec-  
15 tion 103, followed in the construction or subse-  
16 quent retrofitting of residential property struc-  
17 tures; and

18 (I) any other relevant criteria; and

19 (2) application of accepted actuarial and rate-  
20 making principles that reflect the risks involved, an-  
21 ticipated insurance related administrative and oper-  
22 ating costs and loss and loss-adjustment expense  
23 payments, and provide for adequate reserves.

24 (d) LIMITATION.—Any rate classification system  
25 used by the Director to establish actuarial rates under this



1 section shall be cost-effective and shall not impose costs  
2 for the initial establishment or the subsequent administra-  
3 tion of the rate plan that are disproportionate to the size  
4 of the insurance premiums.

5 **SEC. 205. CHARGEABLE PREMIUM RATES.**

6 (a) ESTABLISHMENT.—On the basis of actuarial  
7 rates established under section 204 and such other infor-  
8 mation as may be necessary, the Director shall from time  
9 to time, and after consultation with the Loss Mitigation  
10 Advisory Committee and the Insurance and Reinsurance  
11 Advisory Committee, establish and prescribe, by  
12 regulation—

13 (1) chargeable premium rates for any types and  
14 classes of properties eligible for earthquake, volcanic  
15 eruption, and hurricane coverage; and

16 (2) the terms and conditions under which such  
17 rates shall apply.

18 (b) MINIMIZATION OF CROSS-SUBSIDIZATION.—To  
19 the maximum extent practicable, such chargeable rates  
20 shall be actuarial rates over an extended period of time  
21 and shall result in a minimum of cross-subsidization by  
22 reasonably reflecting the risk of damaging earthquakes,  
23 volcanic eruptions, and hurricanes in total and for each  
24 subclassification of policyholders. In setting and adjusting  
25 chargeable rates under this section, the Director shall pro-

1 vide that, over an extended period of time, expected ex-  
2 penditures from the Insurance Fund under section 208(c)  
3 do not exceed expected receipts of the Fund under section  
4 208(b).

5 (c) LOW-INCOME RATES AND MITIGATION INCEN-  
6 TIVES.—The Director may, pursuant to the plan of oper-  
7 ation under section 201, establish chargeable rates under  
8 this section for (1) residential property occupied by low-  
9 income residents, and (2) residential properties described  
10 in section 206(4), that are less than the actuarial rates  
11 established under section 204, but only to the extent that  
12 such rates do not prevent compliance with the last sen-  
13 tence of subsection (b).

14 **SEC. 206. INSURANCE MITIGATION INCENTIVES.**

15 In carrying out the Primary Insurance Program  
16 under this title pursuant to the plan of operation, the Di-  
17 rector shall provide for the following insurance mitigation  
18 incentives:

19 (1) Charging lower deductible amounts for any  
20 residential property meeting the seismic and hurri-  
21 cane building standards under the loss-reduction cri-  
22 teria.

23 (2) Requiring under earthquake, volcanic erup-  
24 tion, and hurricane coverage that repairs to residen-  
25 tial property sustaining earthquake damage in ex-

1       cess of the deductible include, at a minimum, an-  
2       choring the dwelling to the foundation and the addi-  
3       tion of bracing to cripple walls.

4           (3) Requiring under earthquake, volcanic erup-  
5       tion, and hurricane coverage that repairs to residen-  
6       tial property sustaining hurricane damage in excess  
7       of the deductible include such structural or other re-  
8       pairs as the Director considers appropriate to miti-  
9       gate against future hurricane damage.

10          (4) Requiring under earthquake, volcanic erup-  
11       tion, and hurricane coverage that residential prop-  
12       erty suffering damage in an amount greater than 50  
13       percent of the replacement value of the property  
14       shall be rebuilt to at least the minimum standards  
15       under the loss-reduction criteria under section 103  
16       and applicable to the State.

17          (5) Charging lower premiums or deductible  
18       amounts for any residential property located in a  
19       seismic zone in an earthquake-prone State, or in a  
20       hurricane zone in a hurricane-prone State that  
21       passes an earthquake or hurricane inspection that is  
22       required as a condition of sale, paid for by the seller,  
23       and meets the requirements of section 103(b)(2)(G).

24          (6) Charging lower premiums or deductible  
25       amounts for new residential property not con-

1       structured in volcanic zones in a volcanic eruption-  
2       prone State.

3   **SEC. 207. EARTHQUAKE, VOLCANIC ERUPTION, AND HURRI-**  
4                   **CANE INSURANCE AND REINSURANCE ADVI-**  
5                   **SORY COMMITTEE.**

6       (a) ESTABLISHMENT.—There is established an inde-  
7       pendent advisory committee within the executive branch  
8       to be known as the Earthquake, Volcanic Eruption, and  
9       Hurricane Insurance and Reinsurance Advisory Commit-  
10      tee (in this section referred to as the “Committee”). The  
11      Committee, its members, and its functions shall be sepa-  
12      rate from the Loss Mitigation Advisory Committee estab-  
13      lished under section 102. To the extent not contradicted  
14      by the provisions of this section, the Committee shall be  
15      subject to the provisions of the Federal Advisory Commit-  
16      tee Act.

17      (b) MEMBERSHIP.—

18           (1) APPOINTED MEMBERS.—The Committee  
19      shall be composed of 5 members appointed by the  
20      President, by and with the advice and consent of the  
21      Senate. The members shall be chosen from among  
22      citizens of the United States and shall include—

23           (A) 2 individuals who represent the inter-  
24      ests of private insurers;

1 (B) 1 individual who represents the inter-  
2 ests of private reinsurers;

3 (C) 1 individual who represents the inter-  
4 ests of insurance agents; and

5 (D) 1 individual who is a State insurance  
6 regulator.

7 (2) EX OFFICIO MEMBER.—Notwithstanding  
8 paragraph (1), the Chairman of the Loss Mitigation  
9 Advisory Committee under section 102 shall serve as  
10 an ex officio member of the Committee under this  
11 section.

12 (c) VACANCIES.—A vacancy in the Commission shall  
13 be filled in the manner in which the original appointment  
14 was made.

15 (d) CHAIRMAN.—The President shall designate a  
16 chairman of the Committee from among members selected  
17 for appointment to the Committee.

18 (e) SELECTION.—Not later than 180 days after the  
19 date of the enactment of this Act, the President shall sub-  
20 mit to the Senate nominations for appointment to the  
21 Committee.

22 (f) FUNCTIONS OF THE COMMITTEE.—The Commit-  
23 tee shall review the draft plan of operation established  
24 under section 201. Within 120 days after receiving the  
25 draft plan of operation, the Committee shall submit to the

1 Director written comments and recommendations for any  
2 changes to the plan. After final regulations establishing  
3 the plan of operation have been issued, the Committee  
4 shall submit a written report not less than once every 180  
5 days to the Director and the Congress evaluating the oper-  
6 ation of the Federal earthquake, volcanic eruption, and  
7 hurricane insurance and reinsurance programs under this  
8 title and making recommendations for any actions relating  
9 to such programs. The Committee shall respond as soon  
10 as practicable to all requests of the Director made pursu-  
11 ant to subsection (g) or section 201(e)(4)(C).

12 (g) RESPONSIBILITIES OF THE DIRECTOR.—The Di-  
13 rector shall fully cooperate with the Committee and pro-  
14 vide the Committee with access to personnel and informa-  
15 tion as the Committee considers necessary to carry out  
16 its functions. The Director shall request comments from  
17 the Committee on any questions regarding operation of  
18 the Federal earthquake, volcanic eruption, and hurricane  
19 insurance and reinsurance programs established under  
20 this title.

21 **SEC. 208. RESIDENTIAL PROPERTY INSURANCE FUND.**

22 (a) ESTABLISHMENT.—There is established in the  
23 Treasury of the United States the Residential Property  
24 Insurance Fund for the purpose of carrying out the  
25 Primary Insurance Program under this title.

1 (b) CREDITS OF FUND.—The Insurance Fund shall  
2 be credited with—

3 (1) insurance premiums received by the Direc-  
4 tor under the Primary Insurance Program (less any  
5 amounts credited to the Self-Sustaining Mitigation  
6 Fund under section 104) and interest earned on pre-  
7 miums, as provided in subsection (e) of this section;

8 (2) any amounts borrowed under section 209;

9 (3) any amounts appropriated to the Insurance  
10 Fund; and

11 (4) any interest earned on amounts invested  
12 under subsection (d).

13 (c) USES OF FUND.—Amounts in the Insurance  
14 Fund shall be available for—

15 (1) payments for losses and loss adjustment ex-  
16 penses under subsection (f);

17 (2) payments for insurance company expense  
18 allowances paid (including agents' commissions,  
19 State premium taxes, and companies' administration  
20 expenses);

21 (3) administrative expenses of the Primary In-  
22 surance Program; and

23 (4) interest payments on amounts borrowed  
24 under section 209 for additional losses, if any.

1       (d) INVESTMENT OF AMOUNTS.—The Director may  
2 request the Secretary of Treasury to invest any amount  
3 in the Residential Property Insurance Fund in obligations  
4 issued or guaranteed by the United States, as the Director  
5 considers appropriate.

6       (e) INSURANCE PAYMENTS TO FUND.—Private insur-  
7 ers issuing earthquake, volcanic eruption, and hurricane  
8 insurance coverage shall remit the premiums collected, less  
9 the insurers' expense allowances (as provided for in the  
10 plan of operation), to the Director on a quarterly basis  
11 30 days after the end of the quarter, according to the pro-  
12 cedures prescribed in the plan of operation. Such private  
13 insurers shall maintain a separate, interest-bearing ac-  
14 count for the premiums to be submitted to the Director.  
15 The interest collected on this account shall be forwarded  
16 to the Residential Property Insurance Fund with the  
17 premiums on a quarterly basis.

18       (f) REIMBURSEMENT OF INSURERS.—

19           (1) REQUIREMENT AND PROCEDURE.—The Di-  
20 rector shall reimburse private insurers providing  
21 earthquake, volcanic eruption, and hurricane insur-  
22 ance coverage pursuant to this title from amounts  
23 made available from the Insurance Fund. Reim-  
24 bursement for all claim payments up to and includ-  
25 ing the policy limits of coverage and for all loss ad-



1       justment expenses paid as a result of earthquake,  
2       volcanic eruption, and hurricane shall be made as  
3       follows:

4               (A) The Director shall reimburse insurers  
5       for all claim payments and loss adjustment ex-  
6       pense payments made pursuant to the Federal  
7       Government's obligations. To the extent that  
8       reimbursement is obtained by private insurers  
9       for losses also covered under the Reinsurance  
10      Program, the insurer shall reimburse the Resi-  
11      dential Property Insurance Fund accordingly.

12             (B) If the gross reimbursements exceed  
13      amounts available in the Residential Property  
14      Insurance Fund, a combination of amounts bor-  
15      rowed from the industry under subparagraph  
16      (C) and amounts borrowed from the Treasury  
17      of the United States under section 209 shall  
18      cover the additional losses.

19             (C) The industry share under subpara-  
20      graph (B) shall be equivalent to 10 percent of  
21      the additional losses. Private insurers issuing  
22      earthquake, volcanic eruption, and hurricane  
23      coverage shall be assessed for the industry par-  
24      ticipation in the additional losses based upon  
25      the proportion that each insurer's written pre-

miums for this coverage in each State in which the earthquake, volcanic eruption, or hurricane events occurred bear to the total written premiums for such coverage from all insurers in each State in which the same events occurred, based on the most recently published annual report of the Federal Emergency Management Agency. Assessments under this subparagraph may be reinsured under title III.

(2) REGULATIONS.—The Director may issue regulations establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for damages covered by the earthquake, volcanic eruption, and hurricane coverage issued under this title. The claim practices of the Insurance Fund shall be subject to and conform with any applicable State insurance unfair trade practices statutes. Judicial review of a decision of the Director regarding reimbursement of a private insurer shall be available pursuant to section 201(d).

(g) OBLIGATIONS.—All earthquake, volcanic eruption, and hurricane insurance coverage provided through the Primary Insurance Program under this title shall constitute obligations, in accordance with the provisions of this title, of the United States. The full faith and credit

1 of the United States is pledged for the full payment and  
2 performance of such obligations, subject to the provisions  
3 of subsection (f)(1)(C). The private insurers participating  
4 in the program shall bear no risk and shall assume no  
5 liability for the earthquake, volcanic eruption, and hurri-  
6 cane coverage provided through the program except as  
7 provided in subsection (f)(1)(C).

8 (h) STATUS OF FUND.—Any premiums collected for  
9 deposit in the Insurance Fund shall be exempt from all  
10 taxation now or hereafter imposed by the United States,  
11 by any territory, dependency or possession thereof, or by  
12 the State, county, municipality, or local taxing authority,  
13 except that the insurance policies issued by or in conjunc-  
14 tion with the Federal Government pursuant to this title  
15 shall be subject, where applicable, to State insurance pre-  
16 mium taxes.

17 **SEC. 209. BORROWING FROM TREASURY.**

18 (a) AUTHORITY.—To the extent that the accumulated  
19 assets, including any return on investments, in the Resi-  
20 dential Property Insurance Fund are insufficient to pay  
21 claims and expenses, the Director shall issue, from time  
22 to time, to the Secretary of the Treasury, notes and other  
23 obligations to cover the insufficiency; except that the  
24 amounts of such obligations outstanding at any one time  
25 shall not exceed—

1           (1) \$25,000,000,000 (or such greater amount  
2       as may be approved by the President); and

3           (2) such sums as the Congress may provide act-  
4       ing upon the recommendation of the Director.

5       (b) INTEREST RATE.—Obligations under subsection  
6 (a) shall bear interest at a rate determined by the Sec-  
7 retary of the Treasury, taking into consideration the cur-  
8 rent average market yield on outstanding marketable obli-  
9 gations of the United States of comparable maturities.

10       (c) DEPOSITS.—Any amounts borrowed by the Direc-  
11 tor under this section shall be deposited in the Residential  
12 Property Insurance Fund.

13       (d) REPAYMENT.—Any amounts borrowed under this  
14 section shall be recouped, including interest on the bor-  
15 rowed funds, in future chargeable rates for earthquake,  
16 volcanic eruption, and hurricane coverage pursuant to the  
17 plan of operation. The Secretary of the Treasury shall lib-  
18 erally grant extensions in repayment schedules that the  
19 Director advises the Secretary are necessary.

1 **TITLE III—NATIONAL EARTH-**  
2 **QUAKE, VOLCANIC ERUP-**  
3 **TION, AND HURRICANE EX-**  
4 **CESS LOSS REINSURANCE**  
5 **PROGRAM**

6 **SEC. 301. REINSURANCE PROGRAM.**

7 (a) AVAILABILITY.—

8 (1) INITIAL.—Upon the issuance of final regu-  
9 lations establishing the plan of operation under sec-  
10 tion 201, the Director shall make available, to any  
11 private insurer participating in the Primary Insur-  
12 ance Program under title II or any private reinsurer  
13 which reinsures any such private insurer, excess re-  
14 insurance coverage for direct and indirect losses that  
15 are not eligible for insurance coverage under title II  
16 and arise from an earthquake, a volcanic eruption,  
17 or a hurricane.

18 (2) EXPANDED.—Upon the expiration of the 2-  
19 year period beginning upon issuance of the regula-  
20 tions referred to in paragraph (1), the Director shall  
21 make available, to any private insurer or private re-  
22 insurer, excess reinsurance coverage for direct and  
23 indirect losses that are not eligible for insurance cov-  
24 erage under title II and arise from an earthquake,  
25 a volcanic eruption, or a hurricane. Each private in-

1 surer or reinsurer participating in the Primary In-  
2 surance Program under title II shall purchase the  
3 excess reinsurance coverage under this title.

4 (b) LIABILITY.—Excess reinsurance under this title  
5 shall be offered as follows:

6 (1) INDUSTRY.—The Reinsurance Fund shall  
7 be liable with respect to such reinsurance in the  
8 event of an earthquake, a volcanic eruption, or a  
9 hurricane after the insurance industry has incurred  
10 losses and loss adjustment expenses from the single  
11 event that are covered under the lines set forth in  
12 section 302(a) and that exceed 8 percent of the in-  
13 dustry countrywide subject net written premium, as  
14 determined by the Director.

15 (2) FEDERAL GOVERNMENT.—After the insur-  
16 ance industry has sustained losses described in para-  
17 graph (1), the Federal Government shall be liable to  
18 an individual private insurer or private reinsurer for  
19 95 percent of qualifying losses in excess of 8 percent  
20 of the private insurer’s or private reinsurer’s coun-  
21 trywide subject net written premium.

22 (c) QUALIFYING LOSSES.—For the purposes of sub-  
23 section (b), the term “qualifying losses” means losses and  
24 loss adjustment expenses incurred by a private insurer or  
25 private reinsurer from an earthquake (including losses and

1 loss adjustment expenses from foreshocks and aftershocks  
2 attributable to the same event and including separate  
3 earthquakes occurring within a 12-month period encom-  
4 passing the event described in subsection (b)(1) whose in-  
5 curred losses and loss adjustment expenses exceed 2 per-  
6 cent of the private insurer's or private reinsurer's country-  
7 wide subject net written premium), a volcanic eruption,  
8 or a hurricane, reduced—

9 (1) by any collectible reinsurance recoverable;

10 and

11 (2) if the percentage of uncollectible reinsur-  
12 ance arising from the event, as compared to total re-  
13 insurance (other than earthquake, volcanic eruption,  
14 or hurricane excess catastrophe reinsurance pur-  
15 chased from the Federal Government) with respect  
16 to the event is—

17 (A) more than 0 but not more than 5 per-  
18 cent, by 0 percent of such uncollectible reinsur-  
19 ance amount;

20 (B) more than 5 percent, but not more  
21 than 15 percent, by 33.33 percent of the  
22 uncollectible reinsurance amount above 5 per-  
23 cent;

24 (C) more than 15 percent, but not more  
25 than 25 percent, by—

1 (i) the amount determined under sub-  
2 paragraph (B); and

3 (ii) 66.66 percent of the uncollectible  
4 reinsurance amount above 15 percent; and  
5 (D) more than 25 percent, by—

6 (i) the amount determined under sub-  
7 paragraph (C); and

8 (ii) 100 percent of the uncollectible re-  
9 insurance amount above 25 percent.

10 (d) OTHER ELIGIBILITY.—

11 (1) IN GENERAL.—Notwithstanding the re-  
12 quirements of subsections (b) and (c), a private in-  
13 surer or private reinsurer shall be eligible for excess  
14 reinsurance coverage and reimbursement from the  
15 Federal Government if the insurer or reinsurer has  
16 incurred losses, prior to any reinsurance coverage,  
17 from a single event that are included in the lines  
18 covered in section 302(a) and that exceed 50 percent  
19 of their countrywide subject direct written premium  
20 or their countrywide subject net written premium,  
21 whichever is greater.

22 (2) LIABILITY.—After the private insurer or  
23 private reinsurer has sustained losses described in  
24 paragraph (1), the Federal Government shall be lia-  
25 ble for 95 percent of qualifying losses, as defined in



1 subsection (c), in excess of 20 percent of the private  
2 insurer's or the private reinsurer's countrywide sub-  
3 ject net written premium.

4 (3) LIMITATION ON LIABILITY.—The liability of  
5 the Federal Government under this subsection shall  
6 be limited to 200 percent of the private insurer's  
7 countrywide subject direct net written premium and  
8 600 percent of the private reinsurer's countrywide  
9 subject assumed net written premium. In the event  
10 a company is both a private insurer and a private  
11 reinsurer, the liability limits shall be 200 percent of  
12 their subject direct net written premium and 600  
13 percent of their subject assumed net written pre-  
14 mium. Intracompany or intragroup reinsurance ar-  
15 rangements or contracts shall not be considered as  
16 reinsurance in the calculation of insurance and rein-  
17 surance subject direct or subject assumed net writ-  
18 ten premium under this subsection.

19 (e) DEFINITIONS.—For purposes of this title:

20 (1) The term “subject assumed net written pre-  
21 mium” means premiums received from other insur-  
22 ance companies for reinsurance less ceded reinsur-  
23 ance, for all lines of coverage listed in section 302.

24 (2) The term “subject direct net written pre-  
25 mium” means the aggregate amount of recorded

1       originated premiums, other than reinsurance, issued  
2       during the year whether collected or not at the close  
3       of the year (plus retrospective audit premium collec-  
4       tions) after deducting all return premiums and ceded  
5       reinsurance premiums, for all lines of coverage listed  
6       in section 302.

7           (3) The term “subject net written premium”  
8       means direct and reinsurance premiums received by  
9       private insurers and private reinsurers, less pre-  
10      miums paid for ceded reinsurance, for all lines of  
11      coverage listed in section 302.

12          (4) The term “uncollectible reinsurance” means  
13      reinsurance proceeds due and payable in accordance  
14      with the terms of the reinsurance contract which are  
15      not paid within 12 months of the due date.

16   **SEC. 302. LINES OF INSURANCE.**

17      (a) COVERED LINES.—The Director shall provide re-  
18      insurance coverage to private insurers for all of the follow-  
19      ing lines of insurance appearing in the National Associa-  
20      tion of Insurance Commissioners Fire and Casualty An-  
21      nual Statement filed with the applicable State department  
22      of insurance:

23           (1) Fire.

24           (2) Allied Lines.

25           (3) Farmowner’s Multiple Peril.

- 1 (4) Homeowner's Multiple Peril.
  - 2 (5) Commercial Multiple Peril.
  - 3 (6) Ocean Marine.
  - 4 (7) Inland Marine.
  - 5 (8) Earthquake.
  - 6 (9) Workers Compensation.
  - 7 (10) Other Liability.
  - 8 (11) Aircraft (All Perils).
  - 9 (12) Glass.
  - 10 (13) Burglary and Theft.
  - 11 (14) Boiler and Machinery.
  - 12 (15) Reinsurance.
- 13 Reinsurance coverage must be purchased for all covered  
14 lines of insurance and in all affected seismic, volcanic, and  
15 hurricane rating zones in earthquake-prone, volcanic erup-  
16 tion-prone, or hurricane-prone States with the rates for  
17 such coverage set by the Director, pursuant to section  
18 303.
- 19 (b) OTHER LINES.—The Federal Government shall  
20 provide reinsurance coverage to private reinsurers for all  
21 of the lines of insurance referred to in subsection (a) as  
22 well as other lines of insurance appearing in the National  
23 Association of Insurance Commissioners Fire and Cas-  
24 ualty Annual Statement, as determined by the Director

1 in the plan of operation and in consultation with the  
2 Insurance and Reinsurance Advisory Committee.

3 **SEC. 303. RATES.**

4 (a) ESTABLISHMENT.—The Director shall establish  
5 the rates for the excess reinsurance coverage and adjust  
6 the rates when necessary using generally accepted actuar-  
7 ial principles. To the maximum extent practicable, such  
8 rates shall be actuarial rates which produce a minimum  
9 degree of cross-subsidization over an extended period of  
10 time consistent with the infrequency of catastrophic earth-  
11 quakes, volcanic eruptions, and hurricanes. In setting and  
12 adjusting the rates, the Director shall provide that, over  
13 an extended period of time, expected expenditures from  
14 the Reinsurance Fund under section 305(c) do not exceed  
15 expected receipts of the Reinsurance Fund under section  
16 305(b).

17 (b) CONSIDERATIONS.—In setting or adjusting such  
18 rates, the Director shall also provide for a minimum de-  
19 gree of cross-subsidization among classes of reinsureds by  
20 reasonably reflecting the differences in risk of and vulner-  
21 ability to loss from earthquakes, volcanic eruptions, and  
22 hurricanes that would be subject to payment from the  
23 Reinsurance Fund, by giving due consideration to the  
24 following:

1           (1) The premium volume of the reinsured by  
2           line of insurance under section 302(a) by seismic,  
3           volcanic, and hurricane zone or State in which the  
4           risks insured or reinsured by the reinsurer are lo-  
5           cated.

6           (2) The proportion of the total expected amount  
7           of payments for qualifying losses and loss adjust-  
8           ment expenses by line of insurance under section  
9           302(a) by seismic, volcanic, and hurricane zone or  
10          State expected for each reinsured.

11          (c) LIMITATION.—Any rate classification system used  
12          by the Director under this section shall be cost-effective  
13          and shall not impose costs for the initial establishment or  
14          the subsequent administration of the rating plan that are  
15          disproportionate to the size of the premiums.

16          (d) QUARTERLY PAYMENT.—Premiums paid to the  
17          Reinsurance Fund for reinsurance coverage under this  
18          title shall be paid on a quarterly basis and shall be accu-  
19          mulated in the Reinsurance Fund, to be managed pursu-  
20          ant to section 305.

21       **SEC. 304. REINSURANCE CONTRACTS.**

22          (a) TERMS.—The reinsurance contracts issued by the  
23          Federal Government pursuant to this title shall contain  
24          terms and conditions similar to those generally used in  
25          private catastrophic reinsurance contracts.

1 (b) JUDICIAL REVIEW.—Judicial review of a decision  
2 of the Director regarding payment of claims shall be made  
3 available pursuant to section 201(d).

4 (c) OBLIGATIONS.—All reinsurance contracts issued  
5 under this title shall constitute obligations, in accordance  
6 with the terms of such reinsurance, of the United States.  
7 The full faith and credit of the United States is pledged  
8 for the full payment and performance of such obligations.

9 (d) SINGLE ENTITIES.—Any private insurance and  
10 reinsurance companies under the same ownership or man-  
11 agement, as determined under the plan of operation, shall  
12 be considered a single entity for purposes of this title.

13 **SEC. 305. REINSURANCE FUND.**

14 (a) ESTABLISHMENT.—There is established in the  
15 Treasury of the United States the Reinsurance Fund for  
16 the purposes of carrying out the excess loss reinsurance  
17 program under this title.

18 (b) CREDITS OF FUND.—The Reinsurance Fund  
19 shall be credited with—

- 20 (1) any reinsurance premiums received by the  
21 Director under the excess loss reinsurance program;  
22 (2) any amounts borrowed under section 306;  
23 and  
24 (3) any amounts earned under subsection (d).

1       (c) USE OF FUND.—The Reinsurance Fund shall be  
2 available to the Director for—

3           (1) payments for qualifying losses and loss ad-  
4 justment expenses under the excess loss reinsurance  
5 program under this title;

6           (2) administrative expenses of carrying out the  
7 program; and

8           (3) interest payments on amounts borrowed  
9 from the Treasury under section 306, if any.

10       (d) INVESTMENT.—The Director shall request the  
11 Secretary of the Treasury to invest any amounts in the  
12 Reinsurance Fund in obligations issued or guaranteed by  
13 the United States, as the Director considers appropriate.

14       (e) STATUS OF FUNDS.—Any reinsurance premiums  
15 collected for deposit in the Reinsurance Fund shall be ex-  
16 empt from all taxation now or hereafter imposed by the  
17 United States, by any territory, dependency or possession  
18 thereof, or by any State, county, municipality, or local tax-  
19 ing authority, except that the insurance policies issued by  
20 or in conjunction with the Federal Government pursuant  
21 to this title shall be subject, where applicable, to State  
22 insurance premium taxes.

23 **SEC. 306. BORROWING FROM TREASURY.**

24       (a) AUTHORITY.—To the extent that the accumulated  
25 assets, including any return on investments, in the Rein-

1 surance Fund are insufficient to pay claims and expenses,  
2 the Director shall issue, from time to time, to the Sec-  
3 retary of the Treasury, notes and other obligations to  
4 cover the insufficiency; except that the amounts of such  
5 obligations outstanding at any one time shall not exceed—

6 (1) \$25,000,000,000 (or such greater amount  
7 as may be approved by the President); and

8 (2) such sums as the Congress may provide act-  
9 ing upon the recommendation of the Director.

10 (b) INTEREST RATE.—Obligations under subsection  
11 (a) shall bear interest at a rate determined by the Sec-  
12 retary of the Treasury, taking into consideration the cur-  
13 rent average market yield on outstanding marketable obli-  
14 gations of the United States of comparable maturities.

15 (c) DEPOSITS.—Any amounts borrowed by the Direc-  
16 tor under this section shall be deposited in the Reinsur-  
17 ance Fund.

18 (d) REPAYMENT.—Any amounts borrowed pursuant  
19 to this section shall be recouped, including interest on the  
20 borrowed funds, in future rates for excess reinsurance cov-  
21 erage pursuant to the plan of operation. The Secretary  
22 of the Treasury shall liberally grant extensions in repay-  
23 ment schedules that the Director advises the Secretary are  
24 necessary.

○