

106TH CONGRESS
1ST SESSION

S. 1361

To amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13 (legislative day, JULY 12), 1999

Mr. STEVENS (for himself, Mr. INOUE, Mr. LOTT, Mrs. FEINSTEIN, Mr. AKAKA, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, 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.**

4 This Act may be cited as the “Natural Disaster Pro-
5 tection and Insurance Act of 1999”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 Section 2 of the Earthquake Hazards Reduction Act
3 of 1977 (42 U.S.C. 7701) is amended by adding at the
4 end the following new paragraphs:

5 “(12) In addition to earthquakes, other cata-
6 strophic natural disasters, such as major hurricanes
7 and volcanic eruptions, will strike the United States
8 in the future and will inflict substantial long-term
9 consequences in terms of deaths, injuries, property
10 damages, and social and economic losses.

11 “(13) The Federal Government and the govern-
12 ments of States are often not adequately equipped to
13 respond to catastrophic natural disasters.

14 “(14) Billions of dollars in taxpayer-supported
15 government assistance will be paid to rebuild fol-
16 lowing catastrophic natural disasters.

17 “(15) Hazard mitigation can reduce the long-
18 term consequences of natural disasters, especially for
19 those least capable of helping themselves, including
20 the elderly.

21 “(16) Hazard mitigation measures, including
22 building and fire safety codes, retrofitting of struc-
23 tures, public awareness, and community awareness
24 have proved effective in reducing deaths, injuries,
25 and property damage caused by catastrophic natural
26 disasters.

1 “(17) Hazard mitigation measures are not in
2 place in many high-hazard areas, and are not ade-
3 quately enforced where they are in place.

4 “(18) First response capability, including fire
5 fighting, emergency medical assistance, and search
6 and rescue personnel, is as important as hazard
7 mitigation in lessening the impact of natural disas-
8 ters.

9 “(19) Millions of persons in the United States
10 do not have adequate insurance coverage to protect
11 property from catastrophic natural disasters.

12 “(20) In the early 1990’s, catastrophic natural
13 disasters (including Hurricane Andrew and Hurri-
14 cane Iniki and the Northridge earthquake)—

15 “(A) have inflicted substantial losses on
16 private insurance companies; and

17 “(B) those losses have limited the ability
18 to write new coverages in the stricken regions
19 and other parts of the United States.

20 “(21) The natural disasters referred to in para-
21 graph (20) inflicted substantial losses on State and
22 local governments and caused severe strains on the
23 budgets of those local governments.

1 “(22) Some States have intervened to ensure
2 the continued availability of homeowners’ insurance
3 for all residents.

4 “(23) It is appropriate that efforts to improve
5 insurance availability be designed and implemented
6 at the State level.

7 “(24) While State insurance programs may be
8 adequate to cover losses from most natural disasters,
9 a small percentage of events are likely to exceed the
10 financial capacity of these programs and the local
11 insurance markets.

12 “(25) The creation of a private, nongovern-
13 mental, and not-for-profit membership corporation
14 to provide reinsurance coverage for natural disasters
15 will improve the effectiveness of State insurance pro-
16 grams and private insurance markets and will in-
17 crease the likelihood that homeowners’ insurance
18 claims will be fully paid in the event of a large nat-
19 ural catastrophe.”.

20 **SEC. 3. PURPOSE.**

21 Section 3 of the Earthquake Hazards Reduction Act
22 of 1977 (42 U.S.C. 7702) is amended—

23 (1) by inserting “(a) EARTHQUAKE HAZARD
24 REDUCTION.—” before “It is the purpose”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(b) NATURAL DISASTER, RELIEF, AND INSUR-
4 ANCE.—

5 “(1) IN GENERAL.—The purpose of titles II,
6 III, and IV is to reduce deaths, injuries, and prop-
7 erty damage from natural disasters through a haz-
8 ard mitigation program and to enhance access to
9 disaster insurance coverage by improving the capac-
10 ity of the private insurance industry and State dis-
11 aster insurance programs.

12 “(2) OBJECTIVES.—The objectives of titles II,
13 III, and IV include—

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

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

18 “(C) the improvement of State and local
19 emergency first response capability, including
20 the development of standards and guidelines for
21 staffing, operations, and training;

22 “(D) the forging of a partnership with the
23 Federal Government that makes the States and
24 political subdivisions thereof ultimately respon-
25 sible for implementing and enforcing multi-

1 hazard mitigation measures and emergency
2 management;

3 “(E) the creation of a self-sustaining fund-
4 ing mechanism to assist States in paying for
5 mitigation efforts;

6 “(F) the provision of coverage for natural
7 disaster perils together with standard insurance
8 policies;

9 “(G) the establishment of premium rates
10 based on expected losses and risk;

11 “(H) the increased likelihood that the in-
12 surance industry—

13 “(i) makes a substantial contribution
14 in paying losses; and

15 “(ii) continues to provide coverage fol-
16 lowing a catastrophic natural disaster; and

17 “(I) the more effective employment of the
18 insurance industry through a private natural
19 disaster insurance corporation which should—

20 “(i) speed rebuilding following a cata-
21 strophic natural disaster; and

22 “(ii) save taxpayer money by reducing
23 reliance on disaster assistance from gov-
24 ernments.”.

1 **SEC. 4. DEFINITIONS.**

2 Section 4 of the Earthquake Hazards Reduction Act
3 of 1977 (42 U.S.C. 7703) is amended by adding at the
4 end the following new paragraphs:

5 “(8) The term ‘building’ means any structure
6 that is—

7 “(A) fully or partially enclosed; and

8 “(B) used or intended for sheltering per-
9 sons or property.

10 “(9) The term ‘critical facility’ means any
11 school or structure that is essential to emergency
12 services necessary for post-natural disaster recovery,
13 including a hospital, fire or police facility, temporary
14 shelter, or emergency operating and preparedness
15 center.

16 “(10) The term ‘Corporation’ means the Nat-
17 ural Disaster Insurance Corporation referred to in
18 section 301.

19 “(11) The term ‘Director of the Agency’ means
20 the Director of the Federal Emergency Management
21 Agency.

22 “(12) The term ‘earthquake’ means any shak-
23 ing or trembling of the crust of the Earth caused by
24 underground seismic forces.

25 “(13) The term ‘federally related mortgage
26 loan’ has the meaning given the term in section 3(1)

1 of the Real Estate Settlement Procedures Act of
2 1974 (12 U.S.C. 2602(1)).

3 “(14) The term ‘flood’ or ‘flooding’ means a
4 general and temporary condition of partial or com-
5 plete inundation of normally dry land areas from the
6 overflow of inland or tidal waters or the unusual and
7 rapid accumulation of runoff or surface waters from
8 any source.

9 “(15) The term ‘hurricane’—

10 “(A) means a nonfrontal, warm core, low
11 pressure atmospheric system that is officially
12 declared to be a hurricane by the National Hur-
13 ricane Center or declared to be a typhoon by
14 the Joint Typhoon Warning Center; and

15 “(B) includes any associated windstorm
16 events.

17 “(16) The term ‘local community’ means a po-
18 litical subdivision of a State that has a department,
19 or similar entity, that oversees local zoning and
20 building code compliance efforts.

21 “(17) The term ‘ordinance or law coverage’
22 means insurance coverage for the increased cost of
23 construction to repair or rebuild buildings and the
24 cost of demolition due to the enforcement of any or-
25 dinance or law, such as building codes.

1 “(18) The term ‘private insurer’ means any pri-
2 vate insurer or private reinsurer, including all re-
3 lated affiliates or subsidiaries under the same owner-
4 ship or management consistent with the definition in
5 section 1504(a) of the Internal Revenue Code of
6 1986, that is licensed or admitted to write property
7 and casualty insurance or reinsurance within a
8 State.

9 “(19) The term ‘public facility’ has the mean-
10 ing given the term in section 102(8) of the Robert
11 T. Stafford Disaster Relief and Emergency Assist-
12 ance Act (42 U.S.C. 5122(8)).

13 “(20) The term ‘reinsurance coverage’ means
14 the contract provided by the Natural Disaster Insur-
15 ance Corporation under sections 306 and 307 under
16 which that corporation accepts and agrees to pay
17 part of the losses for certain catastrophic natural
18 disasters covered by a private insurer or a State in-
19 surance pool.

20 “(21) The term ‘residential property’ means
21 any family residential building that houses between
22 1 and 4 families (including mobile or manufactured
23 homes).

24 “(22) The term ‘State insurance pool’ means
25 any State-authorized joint underwriting or joint re-

1 insurance association, risk pool, residual market
 2 mechanism, or other type of State-sanctioned entity
 3 that—

4 “(A) provides property insurance coverage
 5 against hurricanes, earthquakes, windstorms,
 6 volcanic eruptions, tsunamis, and wildfires; and

7 “(B) meets minimum standards estab-
 8 lished by the Natural Disaster Insurance Cor-
 9 poration under section 302 regarding actuari-
 10 ally sound rates, the use of available local fi-
 11 nancing, and reasonable underwriting stand-
 12 ards.

13 “(23) The term ‘tsunami’ means an ocean wave
 14 generated by underwater disturbances in the crust of
 15 the Earth, primary earthquakes, and submarine vol-
 16 canic eruptions.

17 “(24) The term ‘volcanic eruption’ means the
 18 expulsion, as a result of natural causes, of molten
 19 rock, rock fragments, gases, ashes, mud, lava flows,
 20 and other natural substances through an opening in
 21 the crust of the Earth.

22 “(25) The term ‘windstorm’—

23 “(A) means an atmospheric disturbance
 24 marked by high velocity movements of air,

1 which shall include tornadoes and hailstorms:
2 and

3 “(B) does not include a hurricane.

4 “(26) The term ‘covered perils’ means the nat-
5 ural disaster perils under section 305.

6 “(27) The term ‘covered purchaser’ means—

7 “(A) with respect to reinsurance coverage
8 made available under a contract under section
9 306, the eligible State-operated insurance or re-
10 insurance program that purchases such cov-
11 erage; and

12 “(B) with respect to reinsurance coverage
13 made available under a contract under section
14 307, the purchaser of the contract auctioned
15 under such section or any subsequent holder or
16 holders of the contract.

17 “(28) The term ‘disaster area’ means a geo-
18 graphical area, with respect to which—

19 “(A) a covered peril specified in section
20 305 has occurred; and

21 “(B) a declaration that a major disaster
22 exists, as a result of the occurrence of such
23 peril—

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

1 “(ii) is in effect.

2 “(29) The term ‘eligible losses’ shall be defined
3 by the Corporation, after consultation with the Inde-
4 pendent Board of Actuaries provided in section 309.

5 “(30) The term ‘eligible State program’ means
6 a State program that, pursuant to section 306(a), is
7 eligible to purchase reinsurance coverage made avail-
8 able through contracts under section 306.

9 “(31) The term ‘price gouging’ means the pro-
10 viding of any consumer good or service by a supplier
11 for a price that the supplier knows or has reason to
12 know is greater, by at least the percentage set forth
13 in a State law or regulation prohibiting such act
14 (notwithstanding any real cost increase due to any
15 attendant business risk and other reasonable ex-
16 penses that result from the major disaster involved),
17 than the price charged by the supplier for such con-
18 sumer good or service immediately before the dis-
19 aster.

20 “(32) The term ‘qualified lines’ means lines of
21 insurance coverage for which losses are covered
22 under section 304 by reinsurance coverage under
23 this Act.

1 “(33) The term ‘reinsurance coverage under
2 this Act’ includes coverage under contracts made
3 available under sections 306 and 307.

4 “(34) The term ‘Secretary’ means the Secretary
5 of the Treasury.

6 “(35) The term ‘State’ means the States of the
7 United States, the District of Columbia, the Com-
8 monwealth of Puerto Rico, the Commonwealth of the
9 Northern Mariana Islands, Guam, the Virgin Is-
10 lands, American Samoa, and any other territory or
11 possession of the United States.

12 **SEC. 5. CONFORMING AMENDMENTS.**

13 The Earthquake Hazards Reduction Act of 1977 (42
14 U.S.C. 7701 et seq.) is amended—

15 (1) in section 4(2) (42 U.S.C. 7703(2))—

16 (A) by inserting “, as used in title I,” be-
17 fore “means”; and

18 (B) by striking “section 5” and inserting
19 “section 101”;

20 (2) by inserting after section 4 the following
21 heading:

1 **“TITLE I—EARTHQUAKE HAZ-**
 2 **ARDS REDUCTION PRO-**
 3 **GRAM”;**

4 (3) by redesignating sections 5 through 12 as
 5 sections 101 through 108, respectively;

6 (4) in sections 101, 103, 105, 106, and 108 (as
 7 redesignated by paragraph (3)), by striking “this
 8 Act” each place it appears and inserting “this title”
 9 in each such place; and

10 (5) in section 108 (as redesignated by para-
 11 graph (3))—

12 (A) by striking “sections 5 and 6” each
 13 place it appears and inserting “sections 101
 14 and 102”; and

15 (B) by striking “section 11” and inserting
 16 “section 107”.

17 **SEC. 6. MULTHAZARD MITIGATION PROGRAM.**

18 The Earthquake Hazards Reduction Act of 1977 (42
 19 U.S.C. 7701 et seq.) is amended by adding at the end
 20 the following new title:

21 **“TITLE II—MULTHAZARD**
 22 **MITIGATION PROGRAM**

23 **“SEC. 201. DEVELOPMENT OF STATE MITIGATION PLANS.**

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

1 “(1) develop, in consultation with the respon-
 2 sible elected local officials, or the official designated
 3 representatives of their State associations, and the
 4 public, a statewide strategic mitigation plan to re-
 5 duce hazards of future natural disasters, such as
 6 hurricanes, windstorms, earthquakes, volcanic erup-
 7 tions, and tsunamis; or

8 “(2) designate in consultation with responsible
 9 elected local officials, or the official designated rep-
 10 resentatives of their State associations, and the pub-
 11 lic, a mitigation plan that is in effect at the time of
 12 the designation that includes the elements described
 13 in subsection (b) as the applicable natural hazards
 14 statewide strategic mitigation plan.

15 “(b) ELEMENTS OF STATE MITIGATION PLANS.—

16 “(1) IN GENERAL.—Each State strategic miti-
 17 gation plan described in subsection (a) shall be
 18 based on broad national criteria and priorities pro-
 19 vided by the Director of the Agency.

20 “(2) SPECIFIC PROCESSES.—Each State stra-
 21 tegic mitigation plan described in subsection (a)
 22 shall include, at a minimum, a process for—

23 “(A) ensuring that structures in hazard
 24 prone areas are built with hazard mitigation
 25 techniques, by—

1 “(i) working with appropriate govern-
2 mental jurisdictions to promote adoption
3 and enforcement of the hazard mitigation
4 portions of established technical construc-
5 tion standards and national consensus
6 safety codes; and

7 “(ii) making available the necessary
8 funding, personnel, and professional train-
9 ing to adequately enforce such construction
10 standards and safety codes;

11 “(B) improving the capabilities for emer-
12 gency response to natural disasters which shall
13 include capabilities for firefighting, search and
14 rescue, and the provision of shelters, commu-
15 nications, and medical relief;

16 “(C) developing standards and guidelines
17 for the regular training of emergency respond-
18 ers to minimize the effects of natural disasters;

19 “(D) achieving enforcement of local com-
20 munity land use ordinances;

21 “(E) addressing further development in
22 high-risk, disaster prone areas and the impact
23 of such development on life safety and the envi-
24 ronment; and

1 “(F) identifying and prioritizing essential
 2 critical facilities, lifelines, and public facilities
 3 to be cost-effectively retrofitted based on the
 4 availability of resources.

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

9 “(c) APPROVAL OF PLAN.—The Director of the
 10 Agency shall review each State strategic mitigation plan
 11 submitted pursuant to subsection (d)(1) and promptly ap-
 12 prove such plan if it contains the elements described in
 13 subsection (b).

14 “(d) DEADLINES.—

15 “(1) SUBMISSION OF MITIGATION PLANS TO
 16 FEMA.—

17 “(A) IN GENERAL.—Not later than 2 years
 18 after enactment of this title, the chief executive
 19 officer of each State shall submit to the Direc-
 20 tor of the Agency its strategic mitigation plan
 21 developed pursuant to this section.

22 “(B) NONCOMPLIANCE.—If the chief exec-
 23 utive officer submits a strategic mitigation plan
 24 under this paragraph that does not meet the re-
 25 quirements of this section, or if the chief execu-

tive officer fails to meet the deadline specified in this paragraph, the State shall be considered to be in noncompliance with the requirements of this paragraph.

“(2) IMPLEMENTATION OF MITIGATION PLANS.—

“(A) IN GENERAL.—Not later than 2 years after the Director of the Agency approves the strategic mitigation plan pursuant to subsection (c), the chief executive officer of each State shall certify to the Director of the Agency whether the elements of its strategic mitigation plan as described in subsection (b) are being implemented in accordance with the requirements of this section.

“(B) NONCOMPLIANCE.—If the chief executive officer certifies under this paragraph that the elements described in subsection (b) have not been implemented, or if the chief executive officer fails to make a certification by the date specified in this paragraph, the State shall be considered to be in noncompliance with the requirements of this paragraph.

“(3) UPDATING OF MITIGATION PLANS.—

1 “(A) IN GENERAL.—Not later than 3 years
2 after the Director of the Agency approves the
3 strategic mitigation plan pursuant to subsection
4 (c), and not later than every 3 years thereafter,
5 the chief executive officer of each State shall
6 submit a certification of the Director of the
7 Agency that the State has reviewed and up-
8 dated, as appropriate, its strategic mitigation
9 plan to reflect the latest developments in the
10 elements described in subsection (b).

11 “(B) NONCOMPLIANCE.—If the chief exec-
12 utive officer certifies under this paragraph that
13 the strategic mitigation plan has not been up-
14 dated, or if the chief executive officer fails to
15 make a certification by the date specified in this
16 paragraph, the State shall be considered to be
17 in noncompliance with the requirements of this
18 paragraph.

19 “(e) NOTIFICATION AND OPPORTUNITY TO CURE.—

20 “(1) IN GENERAL.—The Director of the Agency
21 shall promptly notify in writing any State that does
22 not meet a compliance requirement referred to in
23 subsection (d).

24 “(2) REDUCTION IN CERTAIN ASSISTANCE.—If
25 a State does not take corrective action within 180

1 days after receiving notification under paragraph
 2 (1), the State shall be denied hazard mitigation
 3 funds as specified in subsection (f) until such date
 4 as the Director of the Agency determines that the
 5 State has taken the necessary corrective action.

6 “(f) DENIAL OF MITIGATION FUNDS.—During the
 7 applicable period specified in subsection (e)(2), a State
 8 that fails to meet an applicable deadline described in sub-
 9 section (d) shall not be eligible to receive funds from the
 10 Natural Disaster Hazard Mitigation Fund under section
 11 202.

12 **“SEC. 202. NATURAL DISASTER HAZARD FUND.**

13 “(a) FUNDS TO STATES.—

14 “(1) AUTHORITY.—Beginning with the first day
 15 of the full fiscal year beginning after the date of en-
 16 actment of this title, and on the first day of every
 17 fiscal year thereafter, after the Director of the Agen-
 18 cy credits premiums from the Natural Disaster In-
 19 surance Corporation described in section 301, the
 20 Director of the Agency shall allocate to the States
 21 (except for any State that is denied funds under sec-
 22 tion 201(f)) all of the funds appropriated to the
 23 Mitigation Account described in section 404.

24 “(2) FORMULA.—

1 “(A) IN GENERAL.—Subject to paragraph
 2 (3), the Director of the Agency shall allocate
 3 funds from the Mitigation Account to a State
 4 on the basis of a pro rata formula that is based
 5 on the reinsurance coverage premiums de-
 6 scribed in title III that are collected from that
 7 State.

8 “(B) REGULATIONS.—Not later than 1
 9 year after the date of enactment of this title,
 10 the Director of the Agency shall issue final reg-
 11 ulations describing the pro rata formula de-
 12 scribed in subparagraph (A).

13 “(3) MINIMUM AMOUNT.—The minimum
 14 amount allotted to a State under this subsection for
 15 a fiscal year shall be equal to the greater of—

16 “(A) 0.25 percent of the amounts in the
 17 Mitigation Account on the day before the date
 18 of the allotment; or

19 “(B) \$250,000.

20 “(b) USE.—

21 “(1) IN GENERAL.—The amounts received by
 22 States from the Mitigation Fund shall be used to
 23 support natural disaster hazard mitigation activities,
 24 which may include assistance for—

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

3 “(B) State revolving loan funds, if estab-
4 lished, to undertake financing, including the
5 leveraging of funds for various hazard mitiga-
6 tion activities;

7 “(C) the adoption and enforcement of the
8 hazard mitigation portions of established tech-
9 nical construction standards and national con-
10 sensus safety codes;

11 “(D) low-income individuals and families
12 to help pay for the undertaking of hazard miti-
13 gation measures;

14 “(E) the dissemination of cost-effective
15 technologies—

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

18 “(ii) for the establishment of geo-
19 graphically dispersed and duly incor-
20 porated natural disaster damage preven-
21 tion and mitigation Centers for Protection
22 Against Natural Disasters to carry out the
23 dissemination of these technologies;

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

4 “(G) prenatal disaster hazard mitiga-
 5 tion, including retrofitting of critical facilities,
 6 lifelines, and public facilities.

7 “(2) PRIORITY.—Each State that receives an
 8 allotment under subsection (d) shall give priority in
 9 using the amounts received from the Mitigation
 10 Fund to those hazard mitigation activities necessary
 11 to bring the State into compliance with the strategic
 12 mitigation plan elements described in section 201
 13 (b).

14 “(c) LOCAL COMMUNITIES.—As a condition to receiv-
 15 ing an initial allotment under subsection (a), each State
 16 shall complete the consultative process described in section
 17 201(a).

18 “(d) STATE PERFORMANCE.—

19 “(1) EVALUATION.—The Director of the Agen-
 20 cy shall evaluate at least once every 3 years each
 21 State’s progress in terms of implementing its stra-
 22 tegic mitigation plan as described in section 201(b).

23 “(2) FUTURE ALLOTMENTS.—Future allot-
 24 ments under subsection (a) shall be conditioned on

1 a satisfactory evaluation as described in paragraph
2 (1).

3 “(e) AUDITS.—The Director of the Agency shall peri-
4 odically conduct audits to ensure that States and local
5 communities are using the funds from the allocations
6 made under subsection (a) to support the hazard mitiga-
7 tion activities described in this section and section 201.

8 **“SEC. 203. PUBLIC INFRASTRUCTURE RETROFITTING.**

9 “(a) STUDY.—The Comptroller General of the United
10 States shall conduct a study to identify all Federal pro-
11 grams that provide assistance for public facilities and life-
12 lines. The study shall determine which of these programs
13 include or could include as an eligible use of Federal as-
14 sistance the retrofitting or strengthening of the public fa-
15 cilities and lifelines to minimize damage from future nat-
16 ural disasters.

17 “(b) REPORT TO CONGRESS.—The results of the
18 study described in subsection (a), including the determina-
19 tions on retrofitting, shall be transmitted by the Director
20 of the Agency to Congress not later than 1 year after the
21 date of enactment of this title.

22 **“SEC. 204. AUTHORIZATION OF APPROPRIATIONS.**

23 “(a) OPERATIONS.—There is authorized to be appro-
24 priated such sums as may be necessary for the Director
25 of the Agency to carry out the provisions of this title.

1 “(b) MITIGATION FUND.—There is authorized to be
 2 appropriated such additional sums as Congress considers
 3 appropriate to be deposited in the Mitigation Fund under
 4 section 202 to support hazard mitigation.”.

5 **SEC. 7. NATURAL DISASTER INSURANCE.**

6 The Earthquake Hazards Reduction Act of 1977 (42
 7 U.S.C. 7701 et seq.), as amended by section 6, is further
 8 amended by adding after title II the following new title:

9 **“TITLE III—NATURAL DISASTER**
 10 **INSURANCE**

11 **“SEC. 301. NATURAL DISASTER INSURANCE CORPORATION.**

12 “(a) CREATION.—The Secretary of the Treasury
 13 shall grant loans in accordance with section 310(c) to a
 14 private, nongovernmental, and not-for-profit membership
 15 corporation, that meets the requirements of subsection (b)
 16 (hereafter in this title referred to as the ‘Natural Disaster
 17 Insurance Corporation’ or ‘Corporation’).

18 “(b) PURPOSE.—The Natural Disaster Insurance
 19 Corporation that receives loans as described in subsection
 20 (a)—

21 “(1) shall provide reinsurance coverage for hur-
 22 ricanes, earthquakes, volcanic eruptions, tsunamis,
 23 windstorms, and wildfires; and

1 “(2) shall only be eligible to receive loans under
2 section 310(c), if it complies with all requirements of
3 this title.

4 “(c) MEMBERSHIP.—The members of the Corpora-
5 tion shall own shares in the Corporation and shall consist
6 of private insurers and State insurance pools that pur-
7 chase the reinsurance coverage provided by the Corpora-
8 tion under sections 306 and 307.

9 “(d) STARTUP.—

10 “(1) ADMINISTRATOR.—

11 “(A) IN GENERAL.—An administrator of
12 the Corporation shall be selected by the mem-
13 bers of the Corporation, at the initial organiza-
14 tional meeting of the Corporation.

15 “(B) DUTIES OF THE ADMINISTRATOR.—

16 The administrator of the Corporation shall,
17 with respect to the Corporation, coordinate—

18 “(i) the hiring of temporary staff;

19 “(ii) obtaining office space;

20 “(iii) contracting with consultants and
21 entities;

22 “(iv) managing the election of the ini-
23 tial Board of Directors of the Corporation;
24 and

1 “(v) receiving the startup loans de-
2 scribed in paragraph (2).

3 “(C) TERMINATION OF ADMINISTRATOR.—
4 The activities of the administrator shall termi-
5 nate when all members of the Board of Direc-
6 tors of the Corporation have been selected.

7 “(2) STARTUP LOANS.—

8 “(A) STARTUP ADMINISTRATIVE COSTS.—
9 Startup administrative costs of the Corporation
10 shall be derived from loans received from the
11 private insurers participating as members of the
12 Corporation.

13 “(B) AMOUNT OF STARTUP LOANS.—The
14 amount of startup loans received from private
15 insurers shall be in proportion to each of the
16 participating insurer’s countrywide subject net
17 written premium (as defined and determined by
18 the Director of the Agency).

19 “(C) REPAYMENT OF STARTUP LOANS.—
20 Not later than 3 years after the Corporation is
21 established under subsection (a), or such later
22 time as sufficient funds become available, all
23 startup loans received from private insurers as
24 described in this paragraph shall be repaid with
25 interest by the Corporation from amounts in

1 the trust accounts established pursuant to sec-
2 tion 310.

3 “(e) BOARD OF DIRECTORS.—

4 “(1) GOVERNANCE.—

5 “(A) IN GENERAL.—The Corporation shall
6 be governed by a 15-member Board of Direc-
7 tors (hereafter in this title referred to as the
8 ‘Board’).

9 “(B) VOTING.—Each director of the Board
10 shall have 1 vote and the Board shall set policy
11 and decide all matters by a simple majority of
12 the votes cast.

13 “(C) DUTIES OF THE BOARD.—The Board
14 shall develop and approve the plan of operation
15 described in section 302 and shall be respon-
16 sible for the operation and management of the
17 Corporation.

18 “(2) SELECTION OF DIRECTORS.—The 15 di-
19 rectors of the Board shall be selected as follows:

20 “(A) INSURANCE DIRECTORS.—

21 “(i) IN GENERAL.—Nine insurance di-
22 rectors shall be elected by the members of
23 the Corporation. Except as provided in
24 clause (iii), each insurance director shall
25 have 1 vote. The selection of the insurance

1 directors shall reflect an equitable cross
2 section of the private insurers participating
3 as members of the Corporation in accord-
4 ance with this subparagraph. No more
5 than 1 employee of a specific private in-
6 surer may serve on the Board at any time.

7 “(ii) SPECIAL CLASSES OF INSUR-
8 ERS.—During the period that the Corpora-
9 tion is in existence, of the directors of the
10 Board—

11 “(I) one director shall represent
12 reinsurers that write primarily rein-
13 surance;

14 “(II) one director shall represent
15 small providers of direct insurance
16 that write primarily in personal lines
17 of insurance in less than 10 States;
18 and

19 “(III) one director shall rep-
20 resent commercial insurers that write
21 primarily commercial insurance lines
22 throughout the United States.

23 “(iii) ELECTION BASED ON PREMIUM
24 VOLUME.—Three insurance directors shall
25 be elected to the Board on the basis of the

1 premium volume weighting criteria de-
2 scribed as follows:

3 “(I) INITIAL ELECTION.—For
4 the initial election of the 3 directors
5 under this clause, the vote of each pri-
6 vate insurer serving as a member of
7 the Corporation shall be weighted in
8 proportion to that insurer’s country-
9 wide subject net written premium (as
10 defined and determined by the Direc-
11 tor of the Agency) in relationship to
12 the countrywide subject net written
13 premium for all private insurers serv-
14 ing as members of the Corporation.

15 “(II) SUBSEQUENT ELECTION.—
16 For the election of the 3 directors
17 under this clause other than the ini-
18 tial 3 such directors, the vote of each
19 private insurer serving as a member
20 of the Corporation shall be weighted
21 to reflect the proportion of all pre-
22 miums collected by all participating
23 providers of the primary insurance
24 coverages described in subtitle B and
25 the premium paid by all purchasers of

1 the reinsurance coverage provided by
 2 the Corporation pursuant to subtitle
 3 C collected by the private insurer.

4 “(III) NUMBER OF VOTES.—For
 5 each election held to elect any 1 of the
 6 3 directors under this clause, a pri-
 7 vate insurer may only vote for 1 can-
 8 didate.

9 “(iv) AT-LARGE ELECTION.—Three
 10 insurance directors shall be elected at large
 11 by the private insurers serving as members
 12 of the Corporation.

13 “(B) NONINSURANCE DIRECTORS.—

14 “(i) IN GENERAL.—Not later than
 15 180 days after the election of the insur-
 16 ance directors under subparagraph (A), the
 17 insurance directors elected pursuant to
 18 subparagraph (A) shall nominate 6 non-
 19 insurance directors, who shall be elected by
 20 the members of the Corporation.

21 “(ii) INTERESTS REPRESENTED.—
 22 Each of the following interests shall be
 23 represented by at least 1, but not more
 24 than 2, of the 6 noninsurance directors:

25 “(I) Insurance agents or brokers.

1 “(II) State insurance regulators.

2 “(III) Risk assessment experts
3 who are members of the national
4 academy of sciences.

5 “(IV) Consumers of property-cas-
6 ualty insurance, including consumers
7 of commercial insurance.

8 “(V) Representatives of the
9 banking or real estate industry which
10 are impacted by property-casualty in-
11 surance.

12 “(C) VACANCIES.—A vacancy on the
13 Board shall be immediately filled with a direc-
14 tor who is selected in the manner described in
15 the plan of operation developed under section
16 302.

17 “(3) TERMS OF SERVICE.—The directors elect-
18 ed under paragraph (2) shall serve staggered terms
19 of not more than 6 years.

20 “(4) CHAIRPERSON.—The Board shall select a
21 chairperson from among its directors.

22 “(5) FIDUCIARY DUTY.—For carrying out the
23 duties of the Board, the directors of the Board shall
24 have a fiduciary duty to the Corporation, that shall

1 supersede any duty to an employer or other special
2 interest that the director may otherwise represent.

3 “(f) POWERS.—

4 “(1) CONTROL.—The Corporation shall be—

5 “(A) privately owned by the members of
6 the Corporation, as described in subsection (b);
7 and

8 “(B) under the direction of the Board, as
9 described in subsection (d).

10 “(2) GENERAL POWERS.—Upon the selection of
11 the 9 insurance directors under subsection (d)(2)(A),
12 the Corporation shall take all necessary and appro-
13 priate actions to carry out the functions of the Cor-
14 poration, including hiring staff, making contracts,
15 and paying the salaries and expenses of employees
16 with funds from startup loans described in sub-
17 section (c)(2) and the trust accounts described in
18 section 306.

19 “(3) SPECIFIC POWERS.—Consistent with the
20 plan of operation developed under section 302, the
21 Corporation, under the direction of the Board, shall
22 have the power—

23 “(A) to provide the reinsurance coverage
24 as provided in this Act;

1 “(B) to manage the trust accounts de-
2 scribed in section 310;

3 “(C) to raise funds by issuing obligations
4 in the private market, except that such obliga-
5 tions shall not carry the full faith and credit of
6 the United States; and

7 “(D) to take all other actions necessary
8 and proper to carry out the operations of the
9 Corporation.

10 “(4) EXCLUDED POWERS.—The Corporation
11 may not—

12 “(A) exercise powers that are reserved to
13 the Federal Government as a sovereign govern-
14 ment;

15 “(B) make financial commitments with any
16 sovereign government; and

17 “(C) have as an employee any Federal em-
18 ployee who is subject to the civil service laws
19 under title 5, United States Code.

20 “(g) LIMITATIONS ON LIABILITY.—

21 “(1) INDIVIDUAL MEMBERS.—Individual mem-
22 bers of the Corporation, as described in subsection
23 (b), shall not be liable, or in any way responsible, for
24 the obligations of the Corporation and the trust ac-
25 counts described in section 306.

1 “(2) UNDER FEDERAL LAW.—No action by the
 2 Corporation or the Board pertaining to the plan of
 3 operation described in section 302 or the sale of re-
 4 insurance as described in sections 303 through 309
 5 shall subject the Corporation or the Board to liabil-
 6 ity under Federal law or any law of a State if that
 7 action is taken pursuant to authority granted to the
 8 Corporation under this Act.

9 **“SEC. 302. PLAN OF OPERATION.**

10 “(a) ESTABLISHMENT.—

11 “(1) DEVELOPMENT.—The Board shall develop
 12 a plan of operation (hereafter in this section referred
 13 to as the ‘plan’) describing the administration of the
 14 Corporation and the provision of insurance coverages
 15 by the Corporation.

16 “(2) GENERAL CONTENTS.—The plan shall set
 17 forth the specific policy and programmatic details,
 18 including all guidelines, criteria, definitions, clari-
 19 fications, and procedures necessary for the reinsur-
 20 ance coverage to operate under standard conditions
 21 of insurance that shall be applicable in all States.

22 “(3) INSURANCE COVERAGE PARTICULARS.—
 23 Concerning the particular information regarding the
 24 insurance coverages issued or provided by the Cor-

poration (hereafter in this subsection referred to as
‘coverage particulars’), the plan shall include—

“(A) prices and reserve prices, as described
in sections 306 and 307;

“(B) specific terms and conditions of in-
surance coverages, including—

“(i) coverage eligibility requirements;

“(ii) coverage limits;

“(iii) deductibles; and

“(iv) levels of retained losses as de-
scribed in section 308;

“(C) specific insurance forms and policy
contracts; and

“(D) criteria for the settlement of insur-
ance claims.

“(4) MISCELLANEOUS PLAN PROVISIONS.—In
addition to the coverage particulars described in
paragraph (3), the plan shall include—

“(A) the minimum standards necessary for
State insurance pools to qualify as eligible enti-
ties to purchase the reinsurance coverage under
section 306;

“(B) the terms for the repayment of any
obligations issued in the private market pursu-
ant to section 301(e)(3)(C); and

1 “(C) grievance procedures for resolving
2 disputes among members of the Corporation re-
3 sulting from the decisions of the Board.

4 “(5) PROPRIETARY INFORMATION.—To the
5 maximum extent practicable, the plan shall protect
6 as proprietary specific information provided by pri-
7 vate insurers that is necessary to develop the rates
8 and specific terms and conditions of the insurance
9 coverages issued or provided by the Corporation.

10 “(6) INSURER STABILITY IN INSURANCE COV-
11 ERAGES.—To the maximum extent practicable, the
12 plan shall encourage stability with respect to partici-
13 pation by private insurers in the insurance coverages
14 issued or provided by the Corporation.

15 “(b) PLAN APPROVAL.—The Natural Disaster Insur-
16 ance Board of Actuaries shall review and approve the plan
17 and any amendments made to the plan in accordance with
18 the process described in section 309(c).

19 “(c) ANNUAL REPORT.—

20 “(1) IN GENERAL.—Not later than 1 year after
21 the initial meeting of the Board, and annually there-
22 after, the Board shall prepare a written report on
23 the overall operations of the Corporation.

1 “(2) DISTRIBUTION.—The Board shall dis-
 2 tribute a copy of the report prepared under para-
 3 graph (1) to—

4 “(A) each member of the Corporation; and

5 “(B) the Independent Board of Actuaries
 6 established under section 309.

7 **“SEC. 303. PROGRAM AUTHORITY.**

8 “(a) IN GENERAL.—The Corporation shall carry out
 9 a program under this title to make reinsurance coverage
 10 available through—

11 “(1) contracts for reinsurance coverage under
 12 section 306, which shall be made available for pur-
 13 chase only by eligible State programs; and

14 “(2) contracts for reinsurance coverage under
 15 section 307, which shall be made available for pur-
 16 chase by purchasers under section 307(a)(1) only
 17 through auctions under section 307(a).

18 “(b) PURPOSE.—The program shall be designed to
 19 make reinsurance coverage under this title available to im-
 20 prove the availability of homeowners’ insurance for the
 21 purpose of facilitating the pooling, and spreading the risk,
 22 of catastrophic financial losses from natural disasters and
 23 to improve the solvency of homeowners’ insurance mar-
 24 kets.

1 “(c) CONTRACT PRINCIPLES.—Under the program
 2 under this title, the Corporation shall offer reinsurance
 3 coverage through contracts with covered purchasers, which
 4 contracts—

5 “(1) shall not displace or compete with the pri-
 6 vate insurance or reinsurance markets or capital
 7 markets;

8 “(2) shall minimize the administrative costs;

9 “(3) shall, in the case of any contract under
 10 section 306 for eligible State programs, provide cov-
 11 erage based solely on insured losses within the State
 12 of the eligible State program purchasing the con-
 13 tract; and

14 “(4) shall, in the case of any contract under
 15 section 307 for purchase at auction, provide cov-
 16 erage based solely on insured losses within the re-
 17 gion established pursuant to section 307(a) for
 18 which the auction is held.

19 **“SEC. 304. QUALIFIED LINES OF COVERAGE.**

20 “Each contract for reinsurance coverage made avail-
 21 able under this Act shall provide insurance coverage
 22 against residential property losses to homes (including
 23 dwellings owned under condominium and cooperative own-
 24 ership arrangements) and the contents of apartment
 25 buildings.

1 **“SEC. 305. COVERED PERILS.**

2 “Each contract for reinsurance coverage made avail-
3 able under this Act shall cover losses that are—

4 “(1) proximately caused by—

5 “(A) earthquakes;

6 “(B) perils ensuing from earthquakes, in-
7 cluding fire and tsunami;

8 “(C) hurricanes and windstorms;

9 “(D) volcanic eruptions; and

10 “(E) wildfires; and

11 “(2) in the case only of a contract under section
12 306, insured by the eligible State program pur-
13 chasing the contract.

14 **“SEC. 306. CONTRACTS FOR REINSURANCE COVERAGE FOR**
15 **ELIGIBLE STATE PROGRAMS.**

16 “(a) ELIGIBLE STATE PROGRAMS.—A program shall
17 be eligible to purchase a contract under this section for
18 reinsurance coverage under this title only if the program
19 is a State-operated program that complies with the fol-
20 lowing requirements:

21 “(1) PROGRAM DESIGN.—The program shall be
22 a State-operated—

23 “(A) insurance program that offers cov-
24 erage for homes (which may include dwellings
25 owned under condominium and cooperative
26 ownership arrangements) and the contents of

1 apartments to State residents because of a find-
2 ing by the State insurance commissioner or
3 other State entity authorized to make such de-
4 termination that such a program is necessary in
5 order to provide for the continued availability of
6 such residential coverage for all residents; or

7 “(B) reinsurance program that is designed
8 to improve private insurance markets which
9 offer coverage for homes (which may include
10 dwellings owned under condominium and coop-
11 erative ownership arrangements) and the con-
12 tents of apartments because of a finding by the
13 State insurance commissioner or other State
14 entity authorized to make such determination
15 that such a program is necessary in order to
16 provide for the continued availability of such
17 residential coverage for all residents.

18 “(2) TAX STATUS.—The program shall be
19 structured and carried out in a manner so that the
20 program is exempt from all Federal taxation.

21 “(3) EARNINGS.—The program may not pro-
22 vide for the redistribution of any part of any net
23 profits of the program to any insurer that partici-
24 pates in the program.

25 “(4) MITIGATION.—

1 “(A) IN GENERAL.—The program shall in-
 2 clude mitigation provisions that require that not
 3 less than 10 percent of the net investment in-
 4 come of the State insurance or reinsurance pro-
 5 gram be used for programs to mitigate losses
 6 from natural disasters for which the State in-
 7 surance or reinsurance program was estab-
 8 lished. For purposes of this paragraph, mitiga-
 9 tion shall include methods to reduce losses of
 10 life and property.

11 “(B) EXCEPTION.—Notwithstanding sub-
 12 paragraph (A), in the case of any State for
 13 which the Secretary has determined, pursuant
 14 to a request by the State insurance commis-
 15 sioner, that the 10 percent requirement under
 16 subparagraph (A) will jeopardize the actuarial
 17 soundness of the State program, subparagraph
 18 (A) shall be applied by substituting ‘5 percent’
 19 for ‘10 percent’.

20 “(5) REQUIREMENTS REGARDING COVERAGE.—

21 “(A) IN GENERAL.—The program—

22 “(i) may not involve cross-subsidiza-
 23 tion between any separate property and
 24 casualty lines covered under the program;

1 “(ii) shall include provisions that au-
2 thorize the State insurance commissioner
3 or other State entity authorized to make
4 such a determination to terminate the pro-
5 gram if the insurance commissioner or
6 other such entity determines that the pro-
7 gram is no longer necessary to ensure the
8 availability of homeowners’ insurance for
9 all State residents; and

10 “(iii) shall provide that, for any insur-
11 ance coverage for homes (which may in-
12 clude dwellings owned under condominium
13 and cooperative ownership arrangements)
14 and the contents of apartments that is
15 made available under the State insurance
16 program and for any reinsurance coverage
17 for such insurance coverage made available
18 under the State reinsurance program, the
19 premium rates charged shall be amounts
20 that, at a minimum, are sufficient to cover
21 the full actuarial costs of such coverage,
22 based on consideration of the risks involved
23 and accepted actuarial and ratemaking
24 principles, anticipated administrative ex-

1 penses, and loss and loss-adjustment ex-
2 penses.

3 “(B) APPLICABILITY.—This paragraph
4 shall apply to any program which, after Janu-
5 ary 1, 1999, commences offering insurance or
6 reinsurance coverage described in subparagraph
7 (A) or (B), respectively, of paragraph (1), or ef-
8 fective 2 years after the date of enactment of
9 this title for any existing State program de-
10 scribed in section 308, provided that such a re-
11 quirement does not reduce a State program’s
12 claims paying capacity.

13 “(6) OTHER QUALIFICATIONS.—

14 “(A) IN GENERAL.—The program shall
15 have been certified (for the year for which the
16 coverage is in effect) by the Corporation as in
17 compliance with regulations that shall be issued
18 under this paragraph by the Corporation, in
19 consultation with the Independent Board of Ac-
20 tuaries established under section 309. The reg-
21 ulations shall establish criteria for State pro-
22 grams to qualify to purchase reinsurance under
23 this section, which are in addition to the re-
24 quirements under the other paragraphs of this
25 subsection.

1 “(B) CONTENTS.—The regulations issued
2 under this paragraph shall include requirements
3 that—

4 “(i) the State program have public
5 members on its board of directors or have
6 an advisory board with public members;

7 “(ii) insurance coverage made avail-
8 able through the State program not sup-
9 plant coverage that is otherwise reasonably
10 available and affordable in the private in-
11 surance market;

12 “(iii) the State program provide ade-
13 quate insurance protection for the peril
14 covered, which shall include a range of
15 deductibles and premium costs that reflect
16 the applicable risk to eligible properties;

17 “(iv) the insurance protection pro-
18 vided by the State program is made avail-
19 able on a nondiscriminatory basis to all
20 qualifying residents;

21 “(v) the State, or the appropriate
22 local governments within the State, have
23 certified that new construction insured by
24 the program complies with applicable
25 building, fire, and safety codes;

1 “(vi) the State, or appropriate local
2 governments within the State, have in ef-
3 fect building, fire, and safety codes gen-
4 erally consistent with Federal Emergency
5 Management Agency guidelines designed to
6 reduce losses from the peril covered;

7 “(vii) the State has taken actions to
8 establish an insurance rate structure that
9 takes into account measures to mitigate in-
10 surance losses; and

11 “(viii) the State program complies
12 with such other requirements that the Sec-
13 retary considers necessary to carry out the
14 purposes of this title.

15 “(b) TERMS OF CONTRACTS.—Each contract under
16 this section for reinsurance coverage under this title shall
17 be subject to the following terms and conditions:

18 “(1) MATURITY.—The term of the contract
19 shall not exceed 1 year.

20 “(2) PAYMENT CONDITION.—The contract shall
21 authorize claims payments for eligible losses only to
22 the eligible State program purchasing the coverage.

23 “(3) RETAINED LOSSES REQUIREMENT.—The
24 contract shall pay eligible losses only if the total
25 amount of insurance claims for losses, which are

1 covered by qualified lines, occur to properties located
2 within the State covered by the contract, and result
3 from a single event of a covered peril, exceeds the
4 amount of retained losses provided under the con-
5 tract (pursuant to section 308(a)) purchased by the
6 eligible State program.

7 “(4) MULTIPLE EVENTS.—The contract shall
8 cover any eligible losses from 1 or more covered
9 events that may occur during the term of the con-
10 tract.

11 “(5) TIMING OF ELIGIBLE LOSSES.—Eligible
12 losses under the contract shall include only insur-
13 ance claims for property covered by qualified lines
14 that are reported to the eligible State program with-
15 in the 3-year period beginning upon the event or
16 events for which payment under the contract is
17 made.

18 “(6) PRICING.—

19 “(A) DETERMINATION.—The cost of rein-
20 surance coverage under the contract shall be an
21 amount established by the Corporation as fol-
22 lows:

23 “(i) RECOMMENDATIONS.—The Cor-
24 poration shall take into consideration the
25 recommendations of the Independent

1 Board of Actuaries in establishing the cost,
2 but the cost may not be less than the
3 amount recommended by the Independent
4 Board of Actuaries.

5 “(ii) FAIRNESS TO TAXPAYERS.—The
6 cost shall be established at a level that is
7 designed to return to the Federal Govern-
8 ment fair compensation for the risks being
9 borne by the people of the United States
10 and that takes into consideration the devel-
11 opmental stage of empirical models of nat-
12 ural disasters and the capacity of private
13 markets to absorb insured losses from nat-
14 ural disasters.

15 “(iii) SELF-SUFFICIENCY.—The rates
16 for reinsurance coverage shall be estab-
17 lished at a level that annually produces ex-
18 pected premiums which shall be sufficient
19 to pay the annualized cost of all claims,
20 loss adjustment expenses, and all adminis-
21 trative costs of reinsurance coverage of-
22 fered under this section.

23 “(B) COMPONENTS.—The cost shall con-
24 sist of the following components:

1 “(i) RISK-BASED PRICE.—A risk-
 2 based price, which shall reflect the antici-
 3 pated annualized payout of the contract
 4 according to the actuarial analysis and rec-
 5 ommendations of the Commission.

6 “(ii) RISK LOAD.—A risk load in an
 7 amount that is not less than the risk-based
 8 price under clause (i).

9 “(iii) ADMINISTRATIVE COSTS.—A
 10 sum sufficient to provide for the operation
 11 of the Corporation and the Independent
 12 Board of Actuaries and the administrative
 13 expenses incurred in carrying out this Act.

14 “(7) REPAYMENT TERMS.—The contract shall
 15 include a condition that requires that, in the event
 16 that a covered purchaser receives payments for
 17 qualifying claims that consist of amounts derived
 18 from a loan provided under section 310(c), such cov-
 19 ered purchaser shall continue to purchase the rein-
 20 surance coverage provided under this title, in
 21 amounts that are at least as great as those imme-
 22 diately before the Fund was credited with amounts
 23 borrowed under section 310(c) until such borrowed
 24 moneys, including interest, are repaid pursuant to
 25 section 310(c)(3).

1 “(8) INFORMATION.—The contract shall contain
2 a condition providing that the Corporation may re-
3 quire the State program that is covered to submit to
4 the Corporation all information on the State pro-
5 gram relevant to the duties of the Corporation, as
6 determined by the Corporation.

7 “(9) EXHAUSTION OF COVERAGE.—

8 “(A) IN GENERAL.—Each contract shall
9 provide that, if during the term of the contract
10 the coverage under the contract is exhausted
11 because of payment for losses from a covered
12 event, the covered purchaser shall, during the
13 15-day period beginning upon the covered event
14 that causes exhaustion of the coverage under
15 the original contract, have an option to make a
16 single purchase of similar coverage for the re-
17 maining term of the contract under terms and
18 conditions similar to the original contract, but
19 reflecting a new loss cost estimate and at a cost
20 prorated based upon the remaining term.

21 “(B) DISCRETION.—To facilitate making
22 available contracts pursuant to the exercise of
23 options under subparagraph (A), the Corpora-
24 tion may make—

1 “(i) any estimates and determinations
 2 that may be necessary regarding whether
 3 coverage under a contract is exhausted and
 4 the amount of losses retained by a State
 5 program;

6 “(ii) any estimates and assumptions
 7 necessary to establish the price, terms, and
 8 conditions of a contract provided pursuant
 9 to such an option; and

10 “(iii) any subsequent adjustments to a
 11 contract provided pursuant to the exercise
 12 of such an option (including cancellation of
 13 the contract) to conform the price, terms,
 14 and conditions in accordance with findings
 15 by the Corporation regarding issues pre-
 16 viously estimated and assumed by the Cor-
 17 poration pursuant to clause (ii).

18 “(10) OTHERS.—The contract shall contain
 19 such other terms as the Corporation considers nec-
 20 essary to carry out this Act and to ensure the long-
 21 term financial integrity of the program under this
 22 Act.

23 “(c) PRICE GOUGING PROTECTIONS.—Notwith-
 24 standing any other provision of this section, a State-oper-
 25 ated program that otherwise meets the requirements of

1 this section shall be eligible to purchase a contract under
 2 this section for reinsurance coverage made available under
 3 this title only if the Corporation determines that there are
 4 in effect, in such State, laws or regulations sufficient to
 5 prohibit price gouging, during the term of such reinsur-
 6 ance coverage, in any disaster area located within the
 7 State.

8 **“SEC. 307. AUCTION OF CONTRACTS FOR REINSURANCE**
 9 **COVERAGE.**

10 “(a) AUCTION PROGRAM REQUIREMENTS.—The Cor-
 11 poration shall carry out a program to auction contracts
 12 for reinsurance coverage under this title made available
 13 pursuant to section 303(a)(2), which shall comply with the
 14 following requirements:

15 “(1) PURCHASERS.—The auction program shall
 16 provide for auctioning all contracts made available
 17 under this section to private insurers and reinsurers,
 18 State insurance and reinsurance programs, and
 19 other interested entities.

20 “(2) REGIONAL AUCTIONS.—The auction pro-
 21 gram shall provide for auctions on a regional basis.
 22 The Corporation shall divide the States into not less
 23 than 6 regions for the purpose of holding such re-
 24 gional auctions, which shall include separate regions
 25 for all or part of the State of California and all or

1 part of the State of Florida. Auctions for each re-
2 gion shall be conducted not less often than annually.

3 “(3) RESERVE PRICE.—In auctioning a con-
4 tract under this section for reinsurance coverage, the
5 Corporation shall set a reserve price as the lowest
6 base price for that contract, taking into account the
7 recommendations of the Independent Board of Actu-
8 aries. 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 Independent Board of Actuaries.

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

18 “(C) ADMINISTRATIVE COSTS.—A sum suf-
19 ficient to provide for the operation of the Cor-
20 poration and the Independent Board of Actu-
21 aries and the administrative expenses incurred
22 by the Corporation in carrying out this section.

23 “(D) MITIGATION.—An adjustment that
24 takes into account any efforts that are being

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

3 “(4) OTHER REQUIREMENTS.—The Corporation
4 may establish such other requirements for the auc-
5 tion program as the Corporation considers necessary
6 to carry out this title.

7 “(b) CONTRACT TERMS AND CONDITIONS.—Each
8 contract for reinsurance coverage auctioned under the pro-
9 gram under this section shall include the following terms
10 and conditions:

11 “(1) MATURITY.—The term of each such con-
12 tract shall not exceed 1 year.

13 “(2) TRANSFERABILITY.—The contract shall at
14 all times be fully transferable, assignable, and divis-
15 ible.

16 “(3) MULTIPLE EVENTS.—The contract shall
17 contain the provisions described in section
18 306(b)(4).

19 “(4) THRESHOLD OF COVERAGE.—Each con-
20 tract auctioned in a region established under sub-
21 section (a)(2) shall provide that the covered pur-
22 chaser may receive a payment for losses covered
23 under the contract if, under a process specified in
24 the contract, the Corporation determines that the in-
25 surance industry will, as a result of a single event

1 of a covered peril, incur losses within the coverage
 2 area for such region that are covered by 1 or more
 3 lines of insurance under section 305 in an aggregate
 4 amount, for such event, greater than the level of re-
 5 tained losses specified in section 308.

6 “(5) EXHAUSTION OF COVERAGE.—Each con-
 7 tract shall contain the provisions described in section
 8 306(b)(9).

9 “(6) OTHERS.—The contract shall contain such
 10 other terms as the Corporation considers necessary
 11 to carry out this Act and to ensure the long-term fi-
 12 nancial integrity of the program under this title.

13 “(c) PRICE GOUGING PROTECTIONS.—Notwith-
 14 standing any other provision of this section, a contract for
 15 reinsurance auctioned under this section shall provide re-
 16 insurance coverage only for losses incurred for property
 17 located in a State for which the Corporation has deter-
 18 mined that there are in effect, in such State, laws or regu-
 19 lations sufficient to prohibit price gouging, during the
 20 term of such reinsurance coverage, in any disaster area
 21 located within the State.

22 **“SEC. 308. MINIMUM LEVEL OF RETAINED LOSSES AND**
 23 **MAXIMUM FEDERAL LIABILITY.**

24 “(a) AVAILABLE LEVELS OF RETAINED LOSSES.—
 25 In making reinsurance coverage available under this title,

1 the Corporation shall make available for purchase con-
 2 tracts for such coverage that require the sustainment of
 3 retained losses from a single event of a covered peril (as
 4 required under sections 306(b)(3) and 307(b)(4) for pay-
 5 ment of eligible losses) in various amounts, as the Sec-
 6 retary determines appropriate and subject to the require-
 7 ments under subsection (b).

8 “(b) MINIMUM LEVEL OF RETAINED LOSSES.—

9 “(1) CONTRACTS FOR STATE PROGRAMS.—Sub-
 10 ject to paragraph (3) and notwithstanding any other
 11 provision of this title, a contract for reinsurance cov-
 12 erage under section 306 for an eligible State pro-
 13 gram that offers insurance or reinsurance coverage
 14 described in subparagraph (A) or (B), respectively,
 15 of section 306(a)(1) may not be made available or
 16 sold unless the contract requires retained losses from
 17 a single event of a covered peril in the following
 18 amount:

19 “(A) IN GENERAL.—The State program
 20 shall sustain an amount of retained losses of
 21 not less than the greater of—

22 “(i) \$2,000,000,000;

23 “(ii) the claims-paying capacity of the
 24 eligible State program, as determined by
 25 the Corporation; and

1 “(iii) an amount, determined by the
 2 Corporation in consultation with the Inde-
 3 pendent Board of Actuaries which is suffi-
 4 cient to cover eligible losses in the State
 5 during a 12-month period for all events
 6 having a likelihood of occurrence of once
 7 every 100 years.

8 “(B) TRANSITION RULE FOR EXISTING
 9 STATE PROGRAMS.—

10 “(i) CLAIMS-PAYING CAPACITY.—Sub-
 11 ject to clause (ii), in the case of any eligi-
 12 ble State program that was offering insur-
 13 ance or reinsurance coverage on the date
 14 of enactment of this title and the claims-
 15 paying capacity of which is greater than
 16 \$2,000,000,000 but less than an amount
 17 determined for the State under subpara-
 18 graph (A)(iii), the minimum level of re-
 19 tained losses applicable under this para-
 20 graph shall be the claims-paying capacity
 21 of such State program.

22 “(ii) AGREEMENT.—Clause (i) shall
 23 apply to a State program only if the State
 24 program enters into a written agreement
 25 with the Corporation that shall provide a

1 schedule for increasing the claims-paying
 2 capacity of the State program to the
 3 amount determined sufficient by the Cor-
 4 poration under subparagraph (A)(iii) of
 5 this subsection over a period not to exceed
 6 5 years. The Corporation may extend the
 7 5-year period for not more than 2 addi-
 8 tional 1-year periods if the Corporation de-
 9 termines that losses incurred by the State
 10 program as a result of covered perils create
 11 excessive hardship on the State program.
 12 The Corporation shall consult with the ap-
 13 propriate officials of the State program re-
 14 garding the required schedule and any po-
 15 tential 1-year extensions.

16 “(C) TRANSITION RULE FOR NEW STATE
 17 PROGRAMS.—

18 “(i) 100-YEAR EVENT.—The Corpora-
 19 tion may provide that, in the case of an eli-
 20 gible State program that, after the date of
 21 enactment of this title, commences offering
 22 insurance or reinsurance coverage, during
 23 the 5-year period beginning on the date
 24 that reinsurance coverage under section
 25 306 is first made available, the minimum

level of retained losses applicable under this paragraph shall be the amount determined for the State under subparagraph (A)(iii), except that such minimum level shall be adjusted annually as provided in clause (ii) of this subparagraph.

“(ii) ANNUAL ADJUSTMENT.—Each annual adjustment under this clause shall increase the minimum level of retained losses applicable under this subparagraph to an eligible State program described in clause (i) in a manner such that—

“(I) during the course of such 5-year period, the applicable minimum level of retained losses approaches the minimum level that, under subparagraph (A), will apply to the eligible State program upon the expiration of such period; and

“(II) each such annual increase is a substantially similar amount, to the extent practicable.

“(D) REDUCTION BECAUSE OF REDUCED CLAIMS-PAYING CAPACITY.—

1 “(i) AUTHORITY.—Notwithstanding
2 subparagraphs (A), (B), and (C) or the
3 terms contained in a contract for reinsur-
4 ance pursuant to such subparagraphs, if
5 the Corporation determines that the
6 claims-paying capacity of an eligible State
7 program has been reduced because of pay-
8 ment for losses due to an event, the Cor-
9 poration may reduce the minimum level of
10 retained losses for the State commensurate
11 with the current capacity of the State pro-
12 gram, as determined by the Corporation,
13 but in no case may such minimum level be
14 less than \$2,000,000,000.

15 “(ii) TERM OF REDUCTION.—If the
16 minimum level of retained losses for an eli-
17 gible State program is reduced pursuant to
18 clause (i), upon the expiration of the 5-
19 year period beginning upon such reduction
20 the minimum level of retained losses appli-
21 cable to such State program under a con-
22 tract for reinsurance coverage under sec-
23 tion 306 shall be increased to an amount
24 not less than the amount applicable to

1 such State program immediately before
2 such reduction.

3 “(E) CLAIMS-PAYING CAPACITY.—For pur-
4 poses of this paragraph, the claims-paying ca-
5 pacity of a State-operated insurance or reinsur-
6 ance program under section 306(a)(1) shall be
7 determined by the Corporation, in consultation
8 with the Independent Board of Actuaries, tak-
9 ing into consideration retained losses to private
10 insurers in the State in an amount assigned by
11 the State insurance commissioner, the cash sur-
12 plus of the program, and the lines of credit, re-
13 insurance, and other financing mechanisms of
14 the program established by law.

15 “(2) AUCTION CONTRACTS.—Subject to para-
16 graph (3) and notwithstanding any other provision
17 of this title, a contract for reinsurance coverage may
18 not be made available or sold under section 307
19 through a regional auction unless the contract re-
20 quires that the insurance industry in the region for
21 which the auction was conducted sustains a cumu-
22 lative amount of retained losses (in covered lines re-
23 sulting from covered perils) of not less than the
24 greater of—

25 “(A) \$2,000,000,000; or

1 “(B) an amount, determined by the Cor-
 2 poration in consultation with the Independent
 3 Board of Actuaries, which is sufficient to cover
 4 eligible losses in the region during a 12-month
 5 period for all events having a likelihood of oc-
 6 currence of once every 100 years.

7 “(3) ANNUAL ADJUSTMENT.—The Corporation
 8 may annually raise the minimum level of retained
 9 losses established under paragraph (1) for an eligible
 10 State program or under paragraph (2) for a region
 11 to reflect, as determined by the Corporation—

12 “(A) in the case of an eligible State pro-
 13 gram, changes to the claims-paying capacity of
 14 the program;

15 “(B) changes in the capacity of the private
 16 insurance and reinsurance market;

17 “(C) increases in the market value of prop-
 18 erties; or

19 “(D) such other situations as the Corpora-
 20 tion considers appropriate.

21 In making any determination under this paragraph
 22 in the minimum level of retained losses, the Corpora-
 23 tion shall establish such level at an amount such
 24 that the program under this Act for making reinsur-
 25 ance coverage available does not displace or compete

1 with the private insurance or reinsurance markets
2 or capital markets, as determined by the Corpora-
3 tion.

4 “(4) OPTIONAL ANNUAL INFLATIONARY AD-
5 JUSTMENT.—The Corporation may, on an annual
6 basis, raise the minimum level of retained losses es-
7 tablished under paragraph (1) for each eligible State
8 program and under paragraph (2) for each region to
9 reflect the annual rate of inflation. Any such raise
10 shall be made in accordance with an inflation index
11 that the Corporation determines to be appropriate.
12 The first such raise may be made 1 year after con-
13 tracts for reinsurance coverage under this Act are
14 first made available for purchase.

15 “(c) MAXIMUM PAYOUT.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of law, the maximum amount paid for all
18 events in any single year by the Corporation pursu-
19 ant to claims under all contracts for reinsurance cov-
20 erage under this title shall not exceed the applicable
21 maximum amount for such year determined under
22 paragraph (2). If, in any single year, claims under
23 existing contracts for reinsurance coverage exceed
24 the applicable maximum amount, each claimant shall

1 receive a prorated portion of the amount available
2 for payment of claims.

3 “(2) APPLICABLE MAXIMUM AMOUNT.—For
4 purposes of paragraph (1), the applicable maximum
5 amount shall not exceed—

6 “(A) the accumulated assets of the trust
7 account in section 310; and

8 “(B) any Federal loans to the trust ac-
9 count as provided in section 310(c).

10 “(d) LIMITATION ON PERCENTAGE OF RISK IN EX-
11 CESS OF RETAINED LOSSES.—

12 “(1) IN GENERAL.—The Corporation may not
13 make available for purchase contracts for reinsur-
14 ance coverage under this title that represent more
15 than 50 percent of the risk of insured losses in ex-
16 cess of retained losses—

17 “(A) in the case of a contract under sec-
18 tion 306 for an eligible State program, for such
19 State; and

20 “(B) in the case of a contract made avail-
21 able through a regional auction under section
22 307, for such region.

23 “(2) PAYOUT.—For purposes of this subsection,
24 the amount of payout from a reinsurance contract
25 shall be the amount of eligible losses multiplied by

1 the percentage in effect at the time under paragraph
2 (1).

3 **“SEC. 309. INDEPENDENT BOARD OF ACTUARIES.**

4 “(a) ESTABLISHMENT.—There is established an inde-
5 pendent Natural Disaster Insurance Board of Actuaries
6 (referred to in this title as the ‘Independent Board’) to
7 review and approve the plan of operation developed under
8 section 302 and to advise the Corporation regarding the
9 estimated loss costs associated with the contracts for rein-
10 surance coverage available under this title and carrying
11 out the functions specified in this title.

12 “(b) MEMBERSHIP.—

13 “(1) APPOINTMENT.—Not later than 180 days
14 after the date of enactment of this title, the Sec-
15 retary of the Treasury (hereafter in this section re-
16 ferred to as the ‘Secretary’) shall appoint the mem-
17 bers of the Independent Board.

18 “(2) MEMBERS.—

19 “(A) IN GENERAL.—The Independent
20 Board shall be comprised of 5 members.

21 “(B) VACANCIES.—The Secretary shall,
22 upon the occurrence of a vacancy on the Inde-
23 pendent Board, immediately appoint a member
24 to fill the vacancy in the same manner as the
25 original appointment.

1 “(3) QUALIFICATIONS.—The members of the
2 Independent Board described in paragraph (1)—

3 “(A) shall be citizens of the United States;

4 “(B) may not be employees of members of
5 the Corporation; and

6 “(C) shall be professional actuaries who—

7 “(i) are members of the Casualty Ac-
8 tuarial Society or the American Academy
9 of Actuaries (or its successor) and meet
10 the qualification standards of the Academy
11 (or its successor) for public statements of
12 actuarial opinion; and

13 “(ii) have previous experience in set-
14 ting actuarially sound property and cas-
15 ualty rates.

16 “(4) CHAIRPERSON.—The Secretary shall des-
17 ignate a chairperson of the Independent Board from
18 among members appointed to the Independent
19 Board.

20 “(5) TERMS OF SERVICE.—The members ap-
21 pointed under paragraph (2) shall serve staggered
22 terms of not more than 6 years, as determined by
23 the Secretary at the time of appointment.

24 “(c) APPROVAL OF THE PLAN OF OPERATION.—

1 “(1) SUBMISSION OF DRAFT PLAN TO INDE-
2 PENDENT BOARD.—Not later than 15 months after
3 the date of enactment of this title, the Board of the
4 Corporation shall submit to the Independent Board
5 a draft plan of operation that satisfies the require-
6 ments of section 302(a).

7 “(2) APPROVAL OF THE PLAN.—If, upon the
8 termination of the 90-day period beginning on the
9 date on which the Independent Board receives the
10 draft plan under paragraph (1), the Independent
11 Board has not disapproved the draft plan under
12 paragraph (3), the draft plan shall be deemed to
13 have been approved and shall become final.

14 “(3) STANDARD FOR DISAPPROVAL.—The Inde-
15 pendent Board may disapprove the draft plan de-
16 scribed in paragraph (2) only if the plan, as a whole,
17 is materially inconsistent with the provisions of this
18 title.

19 “(4) OPPORTUNITY TO CURE.—

20 “(A) IN GENERAL.—If the Independent
21 Board disapproves a draft plan under para-
22 graph (2), the chairperson of the Independent
23 Board shall immediately return the plan to the
24 Board of the Corporation, together with written
25 instructions of the changes required for the

1 plan to be materially consistent with the provi-
 2 sions of this title.

3 “(B) REVISIONS.—Upon receipt of the
 4 plan and instructions returned under subpara-
 5 graph (A), the Board of the Corporation
 6 shall—

7 “(i) modify the plan in a manner con-
 8 sistent with the instructions; and

9 “(ii) submit a modified plan to the
 10 Independent Board for approval in accord-
 11 ance with the process described in para-
 12 graph (2).

13 “(5) AMENDMENTS TO THE PLAN.—Any
 14 amendments to the plan shall be developed by the
 15 Board of the Corporation under section 302 and ap-
 16 proved by the Independent Board in accordance with
 17 the process described in paragraph (2).

18 “(6) REPORT TO SECRETARY.—After reviewing
 19 the draft plan of operation, and amendments there-
 20 to, the Independent Board shall prepare and submit
 21 a report to the Secretary of its finding regarding
 22 such plan.

23 “(d) APPROVAL OF RATES.—

24 “(1) SUBMISSION OF PROPOSED RATES TO THE
 25 INDEPENDENT BOARD.—Not later than 1 year after

1 the date of enactment of this title, the Board of the
 2 Corporation shall submit to the Independent Board
 3 for approval prices and reserve prices developed by
 4 the Board of the Corporation that are proposed to
 5 be established for the reinsurance contracts issued
 6 or provided by the Corporation, including any meth-
 7 odologies used in developing such prices.

8 “(2) APPROVAL BY THE INDEPENDENT
 9 BOARD.—If, at the termination of the 90-day period
 10 beginning on the date on which the Independent
 11 Board receives the information concerning the meth-
 12 odologies used for determining proposed prices
 13 under paragraph (1), the Independent Board has
 14 not disapproved the methodologies on the basis of
 15 the standard described in paragraph (3), the meth-
 16 odologies shall be deemed to have been approved.

17 “(3) STANDARD FOR DISAPPROVAL.—The Inde-
 18 pendent Board may disapprove the prices or meth-
 19 odologies described in paragraph (2) only if the
 20 Independent Board presents compelling and substan-
 21 tial actuarial evidence on the record that the prices
 22 or methodologies are materially inconsistent with the
 23 actuarial soundness.

24 “(4) OPPORTUNITY TO CURE.—

1 “(A) IN GENERAL.—If the Independent
 2 Board disapproves any proposed prices or meth-
 3 odologies under this subsection, the chairperson
 4 of the Independent Board shall immediately re-
 5 turn the rates and methodologies to the Board
 6 of the Corporation together with written in-
 7 structions of the changes required to the prices
 8 and methodologies to satisfy actuarial sound-
 9 ness.

10 “(B) REVISIONS.—Upon receipt of the
 11 prices or methodologies returned under sub-
 12 paragraph (A), the Board shall modify the rates
 13 or methodologies in a manner consistent with
 14 the instructions of the Independent Board and
 15 resubmit them to the Independent Board for
 16 approval according to the process described in
 17 paragraph (2).

18 “(5) APPROVAL OF PRICES.—Upon the ap-
 19 proval by the Independent Board of methodologies
 20 for the reinsurance coverage prices under this sub-
 21 section, the prices for the reinsurance coverage pro-
 22 posed under paragraph (1) shall—

23 “(A) become final; and

1 “(B) be included by the Board in the plan
2 of operation under section 302 for the reinsur-
3 ance coverage provided by the Corporation.

4 “(6) ADJUSTMENT OF PRICES.—Any adjust-
5 ment of the prices for the methodologies used in de-
6 veloping the prices for the reinsurance coverage shall
7 be developed by the Board of the Corporation under
8 sections 306 and 307 and approved by the Inde-
9 pendent Board according to the process described in
10 paragraph (2).

11 “(e) CONSULTATION.—The Independent Board shall
12 consult risk assessment experts who are employed by the
13 United States Geological Survey of the Department of the
14 Interior (or its designated successor agency), the National
15 Oceanic and Atmospheric Administration of the Depart-
16 ment of Commerce (or its designated successor agency),
17 the National Academy of Sciences, and similar public and
18 private scientific groups to ensure that natural disaster
19 risk models and the geographic rating territories used in
20 developing and approving the actuarial rates under this
21 section are accurate.

22 **“SEC. 310. TRUST ACCOUNTS.**

23 “(a) REINSURANCE COVERAGE TRUST ACCOUNT.—

24 “(1) ESTABLISHMENT.—The Corporation shall
25 establish and maintain a Reinsurance Coverage

1 Trust Account (hereafter in this section referred to
2 as the ‘reinsurance account’) to hold funds in trust
3 generated through the reinsurance coverage de-
4 scribed in this title.

5 “(2) ACCOUNT DEPOSITS.—Except for the
6 amount set aside for the Mitigation Account under
7 section 403(b), the Board shall deposit in the rein-
8 surance account premiums paid by private insurers,
9 reinsurers, State insurance and reinsurance pro-
10 grams, other interested entities that have purchased
11 the reinsurance coverage policy described in this
12 title, plus any interest income accrued on those pre-
13 miums.

14 “(3) PAYMENT OF CLAIMS.—From amounts in
15 the reinsurance account, the Corporation shall pay
16 qualifying claims to entities that have purchased the
17 reinsurance coverage.

18 “(b) INVESTMENTS.—

19 “(1) GENERAL AUTHORITY.—The Board shall
20 invest as the Board considers appropriate, in the
21 primary account and the reinsurance account such
22 amounts as are not required to meet current finan-
23 cial commitments.

24 “(2) DEPOSITS.—Any income generated from
25 the investments described in paragraph (1) shall be

1 deposited by the Board, as appropriate, into the pri-
2 mary account or the reinsurance account.

3 “(c) FEDERAL LOANS.—

4 “(1) LENDING AUTHORITY.—To the extent that
5 the accumulated assets of the trust accounts de-
6 scribed in subsection (a) or funds raised by issuing
7 obligations in the private market pursuant to section
8 301(e)(3)(C), are insufficient to pay claims and ex-
9 penses resulting from the primary insurance cov-
10 erages or the reinsurance coverage, the Secretary of
11 the Treasury shall provide direct loans from the Pri-
12 vate Loss Account described in section 402 in suffi-
13 cient amounts to cover that shortfall in accordance
14 with this subsection.

15 “(2) CONDITIONS.—The following conditions
16 shall apply to each Federal loan provided to the Cor-
17 poration under this subsection:

18 “(A) FINANCIAL CAPACITY.—The aggre-
19 gate amount of all outstanding loans to the
20 Corporation at any given time shall not exceed
21 the financial capacity of the Corporation to
22 repay those loans not later than 20 years after
23 receiving the loans.

24 “(B) NO SUBSIDY COST.—All loans au-
25 thorized by this subsection shall be made under

1 such terms and conditions as are necessary to
2 ensure that, at the time the loans are made,
3 there is no subsidy cost to the Federal Govern-
4 ment for purposes of the Federal Credit Reform
5 Act of 1990.

6 “(C) LOAN SUBJECT TO APPROPRIA-
7 TIONS.—All loans are subject to the availability
8 of funds pursuant to appropriations Acts.

9 “(3) REPAYMENT.—

10 “(A) IN GENERAL.—In a manner con-
11 sistent with paragraph (2), the Secretary of the
12 Treasury shall recoup—

13 “(i) any amounts that the Corporation
14 borrows from the Federal Government
15 under this subsection; and

16 “(ii) interest on the borrowed funds.

17 “(B) INTEREST RATES.—The rate of inter-
18 est on any loan made to the Corporation under
19 this subsection shall be at a nonsubsidized rate
20 of interest established by the Secretary of the
21 Treasury, taking into consideration the current
22 average market yield on outstanding marketable
23 obligations of the United States of comparable
24 maturities.

1 “(C) REINSURANCE REPAYMENT TERMS.—

2 The Corporation shall require, under contrac-
 3 tual terms and conditions with eligible entities
 4 (as defined in sections 306 and 307), that those
 5 eligible entities that receive payments for quali-
 6 fying claims under section 306 and 307 that
 7 consist of funds loaned from the Federal Gov-
 8 ernment or from private sources under this sub-
 9 section shall—

10 “(i) continue to purchase the reinsur-
 11 ance coverage under sections 306 and 307
 12 at levels that are at least equivalent to the
 13 levels of coverage in effect before the re-
 14 ceipt of such payments until the loans
 15 made to the Corporation, including inter-
 16 est, are fully repaid by the Corporation
 17 pursuant to subparagraph (A); or

18 “(ii) fully repay the portion of the
 19 loans made to the Corporation, including
 20 interest, within a reasonable period estab-
 21 lished by the Corporation.

22 “(4) MITIGATION PAYMENTS.—The failure of
 23 the Corporation to pay natural disaster hazard miti-
 24 gation funds and deposit those funds in the Mitiga-
 25 tion Account as provided in section 403 shall render

1 the Corporation ineligible to obtain Federal loans
 2 under this subsection.

3 **“SEC. 311. NO FEDERAL FUNDS.**

4 “Except as provided for in section 310(c), no Federal
 5 funds shall be authorized or appropriated to fund any ac-
 6 tivity of the Corporation.

7 **“SEC. 312. GAO AUDITS.**

8 “(a) AUDITS.—Not later than 1 year after the Cor-
 9 poration commences the issuance of reinsurance coverage,
 10 and once every 3 years thereafter, during the period that
 11 the Corporation provides reinsurance coverages, the
 12 Comptroller General of the United States shall audit ac-
 13 tivities of the Corporation and the Independent Board of
 14 Actuaries established under section 309 to ensure that
 15 both entities are complying with the provisions of this title.

16 “(b) SUBMISSION TO CONGRESS.—Upon completion
 17 of each audit conducted under subsection (a), the Comp-
 18 troller General of the United States shall submit to Con-
 19 gress a report on the results of the audit.”.

20 **SEC. 8. NATURAL DISASTER PROTECTION FUND.**

21 The Earthquake Hazards Reduction Act of 1977 (42
 22 U.S.C. 7701 et seq.), as amended by section 7, is further
 23 amended by adding at the end the following new title:

1 **“TITLE IV—NATURAL DISASTER**
2 **PROTECTION FUND**

3 **“SEC. 401. ESTABLISHMENT.**

4 “(a) THE FUND.—There is established within the
5 Treasury of the United States a trust fund to be known
6 as the Natural Disaster Protection Fund (referred to in
7 this title as the ‘Fund’), consisting of such amounts as
8 may be appropriated or credited to the Fund, as provided
9 in this title.

10 “(b) ACCOUNTS.—There is established in the Fund
11 the following accounts:

12 “(1) PRIVATE LOSS ACCOUNT.—A Private Loss
13 Account, as described in section 402.

14 “(2) MITIGATION ACCOUNT.—A Mitigation Ac-
15 count, as described in section 403.

16 “(c) NO COMMINGLING.—The amounts in the ac-
17 counts established in subsection (b) shall be kept separate.
18 The Secretary of the Treasury shall not permit borrowing
19 of moneys among the accounts.

20 **“SEC. 402. PRIVATE LOSS ACCOUNT.**

21 “Funds in the Private Loss Account established in
22 section 401(b)(1) shall be used by the Secretary of the
23 Treasury to provide direct Federal loans to cover short-
24 falls in the reinsurance account described in section

1 306(b), subject to the lending authority, conditions, and
 2 repayment terms of section 306(d).

3 **“SEC. 403. MITIGATION ACCOUNT.**

4 “(a) PURPOSE OF THE ACCOUNT.—The Mitigation
 5 Account established in section 401(b)(2) shall support the
 6 natural disaster hazard mitigation efforts described in title
 7 II.

8 “(b) MITIGATION SET-ASIDE.—

9 “(1) IN GENERAL.—The Corporation shall pay
 10 a percent of the annual net premiums collected for
 11 the primary insurance coverages described in title II
 12 and the reinsurance coverage described in title III
 13 for natural disaster hazard mitigation purposes.

14 “(2) PRECISE PERCENTAGE.—

15 “(A) IN GENERAL.—The percent amount
 16 described in paragraph (1) shall be a percent-
 17 age amount that totals on an annual basis
 18 \$200,000,000.

19 “(B) ADJUSTMENT.—For any calendar
 20 year after 1999, the dollar amount specified in
 21 subparagraph (A) shall be adjusted by the per-
 22 centage change in the Consumer Price Index
 23 for the preceding calendar year.

1 “(c) DEPOSITS.—The Director of the Agency shall
2 transfer and credit on an annual basis to the Mitigation
3 Account amounts received from—

4 “(1) the amounts set aside of the annual pre-
5 miums described in subsection (b); and

6 “(2) appropriations provided for prenatal dis-
7 aster hazard mitigation activities conducted under
8 the Robert T. Stafford Disaster Relief and Emer-
9 gency Assistance Act (42 U.S.C. 5121 et seq.).

10 “(d) AUTHORIZATION.—For the purposes of sub-
11 section (c)(2) only, there is authorized to be appropriated
12 to the Mitigation Account for fiscal year 2000, and annu-
13 ally thereafter, an amount equal to the amounts provided
14 annually from the percent set aside of premiums received
15 pursuant to subsection (b).”.

○