

108TH CONGRESS
1ST SESSION

S. 1607

To establish a Federal program to provide reinsurance to improve the availability of homeowners' insurance.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2003

Mr. GRAHAM of South Carolina introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To establish a Federal program to provide reinsurance to improve the availability of homeowners' insurance.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Homeowners’ Insurance Availability Act of 2003”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Definitions.
- Sec. 3. Program authority.
- Sec. 4. Qualified lines of coverage.
- Sec. 5. Covered perils.
- Sec. 6. Auction of contracts for reinsurance coverage.
- Sec. 7. Minimum level of retained losses and maximum Federal liability.

Sec. 8. Disaster Reinsurance Fund.

Sec. 9. National Commission on Catastrophe Risks and Insurance Loss Costs.

Sec. 10. Regulations.

Sec. 11. Termination.

Sec. 12. Annual study of cost and availability of disaster insurance and program need.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COMMISSION.—The term “Commission”
4 means the National Commission on Catastrophe
5 Risks and Insurance Loss Costs established under
6 section 9.

7 (2) COVERED PERILS.—The term “covered per-
8 ils” means the disaster perils referred to in section
9 5.

10 (3) COVERED PURCHASER.—The term “covered
11 purchaser” means, with respect to reinsurance cov-
12 erage made available under a contract under section
13 6, the purchaser of the contract auctioned under
14 such section or any subsequent holder or holders of
15 the contract.

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

18 (A) a covered peril has occurred; and

19 (B) a declaration that a major disaster ex-
20 ists, as a result of the occurrence of such
21 peril—

1 (i) has been made by the President of
2 the United States; and

3 (ii) is in effect.

4 (5) ELIGIBLE LOSSES.—The term “eligible
5 losses” means losses in excess of the sustained and
6 retained losses, as defined by the Secretary after
7 consultation with the Commission.

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

19 (7) PROGRAM.—The term “Program” means
20 the program carried out by the Secretary of Treas-
21 ury to make reinsurance coverage available under
22 this Act.

23 (8) QUALIFIED LINES.—The term “qualified
24 lines” means lines of insurance coverage for which

1 losses are covered under section 4 by reinsurance
2 coverage under this Act.

3 (9) REINSURANCE COVERAGE.—The term “re-
4 insurance coverage under this Act” means coverage
5 under contracts made available under section 6 by
6 the Secretary.

7 (10) SECRETARY.—The term “Secretary”
8 means the Secretary of the Treasury.

9 (11) STATE.—The term “State” means the
10 States of the United States, the District of Colum-
11 bia, the Commonwealth of Puerto Rico, the Com-
12 monwealth of the Northern Mariana Islands, Guam,
13 the Virgin Islands, American Samoa, and any other
14 territory or possession of the United States.

15 **SEC. 3. PROGRAM AUTHORITY.**

16 (a) IN GENERAL.—The Secretary of the Treasury
17 shall carry out a program under this Act to make reinsur-
18 ance coverage available through contracts for reinsurance
19 coverage under section 6, which shall be made available
20 for purchase by purchasers under section 6(b)(1) through
21 auctions carried out in accordance with section 6.

22 (b) PURPOSE.—The Program shall be designed to
23 make reinsurance coverage available to improve the avail-
24 ability of homeowners’ insurance for the purposes of—

1 (1) facilitating the pooling, and spreading the
2 risk, of catastrophic financial losses from disasters;
3 and

4 (2) improving the solvency of homeowners' in-
5 surance markets.

6 (c) CONTRACT PRINCIPLES.—Under the Program,
7 the Secretary shall offer reinsurance coverage through
8 contracts with covered purchasers, which contracts—

9 (1) shall not displace or compete with the pri-
10 vate insurance, reinsurance, or capital markets;

11 (2) shall minimize the administrative costs of
12 the Federal Government; and

13 (3) shall provide coverage based solely on in-
14 sured losses within the region established pursuant
15 to section 6(b).

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

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

1 **SEC. 5. COVERED PERILS.**

2 (a) IN GENERAL.—Each contract for reinsurance
3 coverage made available under this Act shall cover losses
4 that are proximately caused by—

5 (1) earthquakes;

6 (2) perils ensuing from earthquakes, including
7 fire and tsunamis; and

8 (3) tropical cyclones having maximum sustained
9 winds of at least 74 miles per hour, including hurri-
10 canes and typhoons.

11 (b) REGULATIONS.—The Secretary shall, by regula-
12 tion, define the disaster perils referred to in subsection
13 (a).

14 **SEC. 6. AUCTION OF CONTRACTS FOR REINSURANCE COV-**
15 **ERAGE.**

16 (a) IN GENERAL.—In carrying out the Program, the
17 Secretary shall establish a program to auction contracts
18 for reinsurance coverage in accordance with this Act.

19 (b) AUCTION PROGRAM REQUIREMENTS.—The auc-
20 tion program established under subsection (a) shall com-
21 ply with the following requirements:

22 (1) PURCHASERS.—Provide for auctioning all
23 contracts made available under this section to pri-
24 vate insurers and reinsurers, State insurance and re-
25 insurance programs, and other interested entities.

26 (2) REGIONAL AUCTIONS.—

1 (A) IN GENERAL.—The Secretary shall
 2 provide for auctions on a regional basis by di-
 3 viding the States into not less than 6 regions
 4 for the purpose of holding such regional auc-
 5 tions, which shall include separate regions for
 6 all or part of the State of California and all or
 7 part of the State of Florida.

8 (B) DETERMINATION OF BOUNDARIES.—
 9 In determining the boundaries for the regions
 10 referred to in subparagraph (A), the Secretary
 11 shall—

12 (i) consider which areas have greater
 13 risks of losses from covered perils and
 14 which areas have lesser risks of losses from
 15 covered perils; and

16 (ii) attempt not to combine those dif-
 17 ferent types of areas.

18 (C) FREQUENCY.—An auction for each re-
 19 gion shall be conducted not less once a year.

20 (3) RESERVE PRICE.—The Secretary shall set,
 21 for each contract, a reserve price that—

22 (A) shall be the minimum price at which
 23 the contract may be sold, based upon the rec-
 24 ommendations of the Commission; and

25 (B) shall be determined on the basis of—

1 (i) a risk-based price, which shall re-
 2 flect the anticipated annualized payout of
 3 the contract according to the actuarial
 4 analysis and recommendations of the Com-
 5 mission;

6 (ii) a risk load in an amount that is
 7 not less than the risk-based price under
 8 clause (i);

9 (iii) a sum sufficient to provide for
 10 the operation of the Commission and the
 11 administrative expenses incurred by the
 12 Secretary in carrying out this section; and

13 (iv) an adjustment based on an actu-
 14 arial analysis that takes into account any
 15 efforts that are being made to reduce
 16 losses to property in the region in which
 17 the contract is being sold.

18 (4) PRICE GOUGING PROTECTIONS.—May pro-
 19 vide reinsurance coverage for losses incurred only for
 20 property located in a State for which the State enti-
 21 ty authorized to make such determination has cer-
 22 tified to the Secretary that there are in effect, in
 23 such State, laws or regulations sufficient to prohibit
 24 price gouging, during the term of such reinsurance

1 coverage, in any disaster area located within the
2 State.

3 (5) MITIGATION REQUIREMENTS.—

4 (A) IN GENERAL.—Require each purchaser
5 of a contract, as a condition of such purchase,
6 to contribute an amount, that the Secretary (in
7 consultation with the Director of the Federal
8 Emergency Management Agency) shall establish
9 and which shall not exceed 5 percent of the
10 price paid for the contract, to communities
11 that—

12 (i) are located in the State in which
13 the reinsurance coverage under the con-
14 tract is provided (or in the case of multiple
15 States, among such States, as determined
16 by the Secretary);

17 (ii) are designated by the Director of
18 the Federal Emergency Management
19 Agency and the appropriate emergency
20 management agency for the State as
21 Project Impact communities (for purposes
22 of the pre-disaster mitigation program of
23 such Agency); and

24 (iii) are participating in such pro-
25 grams or initiatives, as the Secretary may

1 require, that provide incentives for con-
2 struction of structures and communities
3 that are resistant to damage from covered
4 perils, including the Building Code Effec-
5 tiveness Grading Schedule of the Insurance
6 Services Office.

7 (B) USE OF CONTRIBUTIONS.—Amounts
8 contributed to communities pursuant to sub-
9 paragraph (A) shall be used only—

10 (i) for activities to reduce losses from
11 covered perils to properties covered under
12 the reinsurance contract purchased under
13 the auction program that are located in
14 such communities; and

15 (ii) in accordance with such require-
16 ments as the Secretary, in consultation
17 with the Director of the Federal Emer-
18 gency Management Agency and appro-
19 priate State agencies, shall establish to en-
20 sure cost-effective use of such amounts.

21 (C) ALLOCATION.—The Secretary, in con-
22 sultation with the Director of the Federal
23 Emergency Management Agency, shall establish
24 requirements for allocation of contributions

1 among communities that are eligible under sub-
2 paragraph (A) to receive such contributions.

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

7 (c) CONTRACT TERMS AND CONDITIONS.—Each con-
8 tract for reinsurance coverage under this Act shall include
9 the following terms and conditions:

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

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

16 (3) THRESHOLD OF COVERAGE.—The contract
17 shall provide that the covered purchaser may receive
18 a payment for losses covered under the contract if,
19 under a process specified in the contract, the Sec-
20 retary determines that the insurance industry will,
21 as a result of a single event of a covered peril, incur
22 losses within the coverage area for the region estab-
23 lished under subsection (b)(2) for which the contract
24 was auctioned that are covered by 1 or more lines
25 of insurance under section 5 in an aggregate

1 amount, for such event, greater than the level of re-
2 tained losses specified in section 7.

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

9 (5) ADDITIONAL CONTRACT OPTION.—

10 (A) IN GENERAL.—The contract shall pro-
11 vide that the purchaser of the contract may
12 purchase, during the term of such original con-
13 tract, additional contracts from among those of-
14 fered by the Secretary at the beginning of the
15 term, subject to the limitations in section 7, at
16 the prices at which such contracts were offered
17 at the beginning of the term, prorated based
18 upon the remaining term as determined by the
19 Secretary.

20 (B) COVERAGE.—Additional contracts re-
21 ferred to in subparagraph (A) shall provide cov-
22 erage beginning on a date that is 15 days after
23 the date of purchase but shall not provide cov-
24 erage for losses for an event that has already
25 occurred.

1 (6) SUBMISSION OF INFORMATION.—The con-
2 tract shall include terms that—

3 (A) require the purchaser to notify the
4 Secretary of any sale, transfer, assignment, or
5 division of the contract or any interest in the
6 contract, identify the interest involved, and
7 identify the price paid or compensation pro-
8 vided; and

9 (B) authorize the disclosures required
10 under subsection (d)(2).

11 (7) OTHER TERMS.—The contract shall contain
12 such other terms as the Secretary considers nec-
13 essary to carry out this Act and to ensure the long-
14 term financial integrity of the Program under this
15 Act.

16 (d) GAO AUDIT.—

17 (1) IN GENERAL.—For each fiscal year, the
18 Comptroller General of the United States shall con-
19 duct an audit of prices for contracts made available
20 through the auction program established under this
21 section during such fiscal year that determines—

22 (A) the reserve prices established for such
23 contracts;

24 (B) the prices paid for such contracts that
25 are purchased;

1 (C) the prices paid, or compensation pro-
2 vided, in any sales, transfers, assignments, or
3 divisions of any such contracts (or any interests
4 in such contracts) in the secondary market or
5 to any third party; and

6 (D) pursuant to the information obtained
7 under subparagraphs (A), (B), and (C), the ap-
8 propriate reserve prices for such contracts that
9 are to be made available in the succeeding fiscal
10 year.

11 (2) USE OF INFORMATION.—The Secretary
12 shall provide any information referred to in sub-
13 section (c)(6) that is obtained by the Secretary to
14 the Comptroller General, the Director of the Con-
15 gressional Budget Office, and the Director of the Of-
16 fice of Management and Budget, and shall make
17 such information publicly available. The Secretary,
18 the Director of the Congressional Budget Office, and
19 the Director of the Office of Management and Budg-
20 et shall each take such information into consider-
21 ation in preparing any budget, report, estimate, or
22 recommendation to the extent that such information
23 relates to the auction program established under this
24 section, and in any determinations relating to the
25 Budget of the United States or the concurrent reso-

1 lution on the budget (as such term is defined in sec-
2 tion 3 of the Congressional Budget Act of 1974).
3 The Secretary shall take such information into con-
4 sideration in establishing reserve prices for contracts
5 made available under this section.

6 (e) PRIVATE SECTOR RIGHT TO PARTICIPATE.—

7 (1) ESTABLISHMENT OF COMPETITIVE PROCE-
8 DURE.—The Secretary shall establish, by regulation,
9 a competitive procedure that provides qualified enti-
10 ties an opportunity, on a basis consistent with the
11 regional auction procedure and contract cycle estab-
12 lished under this section by the Secretary, to offer
13 to provide, in lieu of reinsurance coverage under this
14 Act made available by the Secretary, reinsurance
15 coverage that is substantially similar to such cov-
16 erage.

17 (2) COMPETITIVE PROCEDURE.—Under the
18 competitive procedure established in paragraph
19 (1)—

20 (A) the Secretary shall establish criteria
21 for private insurers, reinsurers, and capital
22 market companies, and consortia of such enti-
23 ties to be treated as qualified entities for pur-
24 poses of this subsection, which criteria shall re-
25 quire such an entity to have at all times capital

1 sufficient to satisfy the terms of the reinsurance
2 contracts and shall include such other industry
3 and credit rating standards as the Secretary
4 considers appropriate;

5 (B) not less than 30 days before the begin-
6 ning of each regional auction during which any
7 reinsurance coverage under this Act is to be
8 made available, the Secretary shall publish in
9 the Federal Register the reserve prices and
10 terms for contracts for such reinsurance cov-
11 erage that are to be made available during the
12 auction;

13 (C) the Secretary shall provide any quali-
14 fied entity a period of not less than 10 days
15 (which shall terminate not less than 20 days be-
16 fore the beginning of the auction) to submit to
17 the Secretary a written expression of interest in
18 providing reinsurance coverage in lieu of the re-
19 insurance coverage otherwise to be made avail-
20 able under this Act by the Secretary;

21 (D) the Secretary shall provide any quali-
22 fied entity submitting an expression of interest
23 under subparagraph (C), during the period re-
24 ferred to in such subparagraph, a period of not
25 less than 20 days (which shall terminate before

1 the commencement of the auction) to submit to
2 the Secretary an offer to provide, in lieu of the
3 reinsurance coverage otherwise to be made
4 available under this Act by the Secretary, cov-
5 erage that is substantially similar to such cov-
6 erage;

7 (E) if the Secretary determines that an
8 offer submitted under subparagraph (D), dur-
9 ing the period referred to in such subpara-
10 graph, is a bona fide offer to provide reinsur-
11 ance coverage to be made available during the
12 auction for the same contract cycle and at a re-
13 serve price and terms that are substantially
14 similar to the reserve price and terms for rein-
15 surance coverage otherwise to be made available
16 under this Act by the Secretary, the Secretary
17 shall accept the offer (if still outstanding) and,
18 notwithstanding any other provision of this Act,
19 provide that the reinsurance coverage provided
20 by such entity in accordance with the offer shall
21 be made available at the auction; and

22 (F) if the Secretary accepts an offer pur-
23 suant to subparagraph (E) to make reinsurance
24 coverage available at the auction, notwith-
25 standing any other provision of this Act, the

1 Secretary shall reduce, to an equivalent extent,
 2 the amount of reinsurance coverage otherwise
 3 to be made available under this Act by the Sec-
 4 retary, unless and until the Secretary deter-
 5 mines that the entity is not complying with the
 6 terms of the accepted offer.

7 **SEC. 7. MINIMUM LEVEL OF RETAINED LOSSES AND MAX-**
 8 **IMUM FEDERAL LIABILITY.**

9 (a) AVAILABLE LEVELS OF RETAINED LOSSES.—
 10 Subject to the requirements of subsection (b), in making
 11 reinsurance coverage available under this Act, the Sec-
 12 retary shall make available for purchase contracts for such
 13 coverage that require the sustainment of retained losses
 14 from a single event of a covered peril (as required under
 15 section 6(c)(3) for payment of eligible losses) in various
 16 amounts, as the Secretary, in consultation with the Com-
 17 mission, determines to be appropriate.

18 (b) MINIMUM LEVEL OF RETAINED LOSSES.—

19 (1) CUMULATIVE AMOUNT.—Notwithstanding
 20 any other provision of this Act, and subject to para-
 21 graphs (2), (3), and (4), a contract for reinsurance
 22 coverage may not be made available or sold under
 23 section 6 through a regional auction unless the con-
 24 tract requires that the insurance industry in the re-
 25 gion for which the auction was conducted sustains a

1 cumulative amount of retained losses (in covered
 2 lines resulting from covered perils) of not less than
 3 an amount, determined by the Secretary in consulta-
 4 tion with the Commission, that is in the range be-
 5 tween—

6 (A) the amount equal to the eligible loss
 7 projected to be incurred once every 100 years
 8 from a single event in the region; and

9 (B) the amount equal to the eligible loss
 10 projected to be incurred once every 250 years
 11 from such an event.

12 (2) INITIAL ADJUSTMENT BASED ON PRIVATE
 13 MARKET.—The Secretary may, before making con-
 14 tracts for reinsurance coverage under this Act ini-
 15 tially available under section 6, raise the minimum
 16 level of retained losses from the amount required
 17 under paragraph (1) for a region to ensure, as de-
 18 termined by the Secretary, that such contracts com-
 19 ply with the principle under section 3(c)(1).

20 (3) ANNUAL ADJUSTMENT.—

21 (A) IN GENERAL.—The Secretary may an-
 22 nually raise the minimum level of retained
 23 losses established under paragraph (1) for a re-
 24 gion to reflect, as determined by the Sec-
 25 retary—

1 (i) changes in the capacity of public
2 reinsurance programs or the private insur-
3 ance and reinsurance market;

4 (ii) increases in the market value of
5 properties; or

6 (iii) such other situations as the Sec-
7 retary considers appropriate.

8 (B) MINIMUM REQUIREMENT.—The Sec-
9 retary shall consider the minimum level of re-
10 tained losses requirement in paragraph (1) as a
11 minimum requirement only and shall have full
12 authority, effective on the date of enactment of
13 this Act, to establish levels of required min-
14 imum retained losses in any amount greater
15 than the amounts specified in paragraph (1).

16 (C) MINIMUM LEVEL.—In making any de-
17 termination under this paragraph in the min-
18 imum level of retained losses, the Secretary
19 shall establish such level at an amount such
20 that the program for making reinsurance cov-
21 erage available under this Act does not displace
22 or compete with the private insurance or rein-
23 surance markets or capital markets, as deter-
24 mined by the Secretary after the Secretary—

1 (i) has provided interested parties an
2 opportunity to submit to the Commission
3 market information relevant to such deter-
4 mination; and

5 (ii) has provided the Commission with
6 an opportunity to advise the Secretary re-
7 garding such information and determina-
8 tion.

9 (4) OPTIONAL ANNUAL INFLATIONARY OR EX-
10 POSURE ADJUSTMENT.—The Secretary may, on an
11 annual basis, raise the minimum level of retained
12 losses requirement in paragraph (1) for each region
13 to reflect the annual rate of inflation or growth in
14 exposures, whichever is greater. Any such raise shall
15 be made in accordance with an inflation index or ex-
16 posure index, as appropriate, that the Secretary de-
17 termines to be appropriate. The first such raise may
18 be made 1 year after contracts for reinsurance cov-
19 erage under this Act are first made available for
20 purchase.

21 (c) MAXIMUM FEDERAL LIABILITY.—

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

1 various amounts which comply with the following re-
2 quirements:

3 (A) ESTIMATE OF AGGREGATE LIABIL-
4 ITY.—The aggregate liability for payment of
5 claims under all such contracts in any single
6 year is unlikely to exceed \$25,000,000,000 (as
7 such amount is adjusted under paragraph (2)).

8 (B) ELIGIBLE LOSS COVERAGE SOLD.—El-
9 igible losses covered by all contracts sold within
10 a State or region during a 12-month period do
11 not exceed the difference between—

12 (i) the amount equal to the eligible
13 loss projected to be incurred once every
14 500 years from a single event in the State
15 or region (which shall be determined by
16 the Secretary in consultation with the
17 Commission); and

18 (ii) the amount equal to the eligible
19 loss projected to be incurred once every
20 100 years from a single event in the State
21 or region (which shall be determined by
22 the Secretary in consultation with the
23 Commission).

24 (2) ANNUAL ADJUSTMENTS.—The Secretary
25 shall annually adjust the amount under paragraph

1 (1)(A) (as it may have been previously adjusted) to
 2 provide for inflation in accordance with an inflation
 3 index that the Secretary determines to be appro-
 4 priate.

5 (d) LIMITATION ON PERCENTAGE OF RISK IN EX-
 6 CESS OF RETAINED LOSSES.—

7 (1) IN GENERAL.—The Secretary may not
 8 make available for purchase contracts for reinsur-
 9 ance coverage under this Act that would pay out
 10 more than 50 percent of eligible losses in excess of
 11 retained losses for the region for which the contract
 12 was made available.

13 (2) PAYOUT.—For purposes of this subsection,
 14 the amount of payout from a reinsurance contract
 15 shall be the amount of eligible losses in excess of re-
 16 tained losses multiplied by the percentage referred to
 17 in paragraph (1).

18 **SEC. 8. DISASTER REINSURANCE FUND.**

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

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

24 (1) amounts received annually from the sale of
 25 contracts for reinsurance coverage under this Act;

1 (2) any amounts borrowed under subsection
2 (d);

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

5 (4) such other amounts as may be credited to
6 the Fund.

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

9 (1) CONTRACT PAYMENTS.—For payments to
10 covered purchasers under contracts for reinsurance
11 coverage under this Act for eligible losses under such
12 contracts.

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

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

19 (4) TERMINATION.—Upon termination as pro-
20 vided in section 11.

21 (d) BORROWING.—

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

1 necessary to cover the insufficiency and shall pur-
2 chase any such obligations issued.

3 (2) PUBLIC DEBT TRANSACTION.—For the pur-
4 pose of purchasing any obligations issued in accord-
5 ance with paragraph (1), the Secretary may use as
6 a public debt transaction the proceeds from the sale
7 of any securities issued under chapter 31 of title 31,
8 United States Code, and the purposes for which se-
9 curities are issued under such chapter are hereby ex-
10 tended to include any purchase by the Secretary of
11 such obligations under this subsection.

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

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

22 (5) REPAYMENT.—Any obligations issued under
23 this subsection shall be repaid, including interest,
24 from the Fund and shall be recouped from pre-

1 miums charged for reinsurance coverage provided
2 under this Act.

3 (e) INVESTMENT.—If the Secretary determines that
4 the amounts in the Fund are in excess of current needs,
5 the Secretary may invest such amounts as the Secretary
6 considers advisable in obligations issued or guaranteed by
7 the United States.

8 (f) PROHIBITION OF FEDERAL FUNDS.—Except for
9 amounts made available pursuant to subsection (d) and
10 section 9(h), no Federal funds shall be authorized or ap-
11 propriated for the Fund or for carrying out the reinsur-
12 ance program under this Act.

13 **SEC. 9. NATIONAL COMMISSION ON CATASTROPHE RISKS**
14 **AND INSURANCE LOSS COSTS.**

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

18 (b) DUTIES.—The Commission shall meet for the
19 purposes of—

20 (1) advising the Secretary regarding the esti-
21 mated loss costs associated with contracts for rein-
22 surance coverage entered into under this Act; and

23 (2) carrying out the functions specified in this
24 Act.

25 (c) MEMBERS.—

1 (1) IN GENERAL.—The Commission shall con-
2 sist of not more than 5 members, who shall be ap-
3 pointed by the Secretary and shall be broadly rep-
4 resentative of the public interest.

5 (2) CONFLICT OF INTEREST.—Members shall
6 have no personal, professional, or financial interest
7 at stake in the deliberations of the Commission.

8 (3) REPRESENTATION.—The membership of the
9 Commission shall at all times include at least 1 rep-
10 resentative of a nationally recognized consumer or-
11 ganization.

12 (d) TREATMENT OF NON-FEDERAL MEMBERS.—
13 Each member of the Commission who is not otherwise em-
14 ployed by the Federal Government shall be considered a
15 special Government employee for purposes of sections 202
16 and 208 of title 18, United States Code.

17 (e) EXPERTS AND CONSULTANTS.—The Commission
18 may procure temporary and intermittent services under
19 section 3109(b) of title 5, United States Code, but at a
20 rate not in excess of the daily equivalent of the annual
21 rate of basic pay payable for level V of the Executive
22 Schedule, for each day during which the individual pro-
23 cured is performing such services for the Commission.

24 (f) COMPENSATION.—Each member of the Commis-
25 sion who is not an officer or employee of the Federal Gov-

1 ernment shall be compensated at a rate of basic pay pay-
 2 able for level V of the Executive Schedule, for each day
 3 (including travel time) during which such member is en-
 4 gaged in the performance of the duties of the Commission.
 5 All members of the Commission who are officers or em-
 6 ployees of the United States shall serve without compensa-
 7 tion in addition to that received for their services as offi-
 8 cers or employees of the United States.

9 (g) OBTAINING DATA.—

10 (1) IN GENERAL.—The Commission and the
 11 Secretary may solicit loss exposure data and such
 12 other information that either the Commission or the
 13 Secretary considers necessary to carry out its re-
 14 sponsibilities from governmental agencies, bodies,
 15 and organizations that act as statistical agents for
 16 the insurance industry.

17 (2) DISCLOSURE.—The Commission and the
 18 Secretary shall take such actions as are necessary to
 19 ensure that information that either the Commission
 20 or the Secretary considers to be confidential or pro-
 21 prietary is disclosed only to authorized individuals
 22 working for the Commission or the Secretary.

23 (3) REFUSAL TO PROVIDE INFORMATION.—A
 24 company that refuses to provide information re-
 25 quested by the Commission or the Secretary may not

1 participate in the program for reinsurance coverage
2 authorized under this Act, and no State insurance
3 or reinsurance program may participate if any gov-
4 ernmental agency within that State has refused to
5 provide information requested by the Commission or
6 the Secretary.

7 (h) FUNDING.—

8 (1) AUTHORIZATION OF APPROPRIATIONS.—

9 There are authorized to be appropriated for fiscal
10 year 2004

11 (A) \$1,000,000 for the initial expenses in-
12 curred in establishing the Commission and the
13 initial activities of the Commission that cannot
14 timely be covered by amounts obtained pursu-
15 ant to section 6(b)(3)(B)(iii), as determined by
16 the Secretary;

17 (B) such sums as may be necessary to
18 carry out subsequent activities of the Commis-
19 sion;

20 (C) \$1,000,000 for the initial expenses of
21 the Secretary in carrying out the program au-
22 thorized under section 3; and

23 (D) such sums as may be necessary to
24 carry out subsequent activities of the Secretary
25 under this Act.

1 (2) OFFSET.—The Secretary shall provide, to
 2 the maximum extent practicable, that an amount
 3 equal to any amount appropriated under paragraph
 4 (1) is obtained from purchasers of reinsurance cov-
 5 erage under this Act and deposited in the Fund es-
 6 tablished under section 8. Such amounts shall be ob-
 7 tained by inclusion of a provision for the Secretary’s
 8 and the Commission’s expenses incorporated into the
 9 pricing of the contracts for such reinsurance cov-
 10 erage, pursuant to section 6(b)(3)(B)(iii).

11 (i) TERMINATION.—The Commission shall terminate
 12 upon the effective date of the repeal under section 11(c).

13 **SEC. 10. REGULATIONS.**

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

17 **SEC. 11. TERMINATION.**

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

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

1 gram for reinsurance coverage under this Act is necessary
 2 to carry out the purpose of this Act under section 3(b)
 3 because of insufficient growth of capacity in the private
 4 homeowners' insurance market, the Secretary shall con-
 5 tinue to provide reinsurance coverage under this Act until
 6 the expiration of the 5-year period beginning upon the ex-
 7 piration of the period referred to in subsection (a).

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

12 (d) DEFICIT REDUCTION.—The Secretary shall cover
 13 into the General Fund of the Treasury any amounts re-
 14 maining in the Fund under section 8 upon the repeal of
 15 this Act.

16 **SEC. 12. ANNUAL STUDY OF COST AND AVAILABILITY OF**
 17 **DISASTER INSURANCE AND PROGRAM NEED.**

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

23 (b) CONTENTS.—Each study conducted in accord-
 24 ance with subsection (a) shall determine and identify, on
 25 an aggregate basis—

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

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

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

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

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

16 (c) TIMING.—Each report submitted in accordance
17 with subsection (a) shall be submitted annually, and not
18 later than March 30 of the year after the year for which
19 the study was conducted.

20 (d) COMMENCEMENT OF REPORTING REQUIRE-
21 MENT.—Not later than 2 years after the date of enact-
22 ment of this Act, the Secretary shall submit its first an-
23 nual report in accordance with subsection (a).

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