

109TH CONGRESS
1ST SESSION

H. R. 846

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2005

Ms. GINNY BROWN-WAITE of Florida (for herself, Mr. DAVIS of Florida, Mr. SHERMAN, Ms. ROS-LEHTINEN, Mr. LARSEN of Washington, Ms. BORDALLO, Mr. LEWIS of Georgia, Mr. WELDON of Florida, Ms. HOOLEY, Mr. WOLF, Ms. WASSERMAN SCHULTZ, Mr. BILIRAKIS, Mr. GENE GREEN of Texas, and Mr. FEENEY) introduced the following bill; which was referred to the Committee on Financial Services

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 2005”.

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. Program authority.
- Sec. 3. Qualified lines of coverage.

- Sec. 4. Covered perils.
- Sec. 5. Auction of contracts for reinsurance coverage.
- Sec. 6. Minimum level of retained losses and maximum Federal liability.
- Sec. 7. Disaster Reinsurance Fund.
- Sec. 8. National Commission on Catastrophe Risks and Insurance Loss Costs.
- Sec. 9. Definitions.
- Sec. 10. Regulations.
- Sec. 11. Termination.
- Sec. 12. Annual study of cost and availability of disaster insurance and program need.

1 SEC. 2. PROGRAM AUTHORITY.

2 (a) IN GENERAL.—The Secretary of the Treasury
 3 shall carry out a program under this Act to make reinsur-
 4 ance coverage available through contracts for reinsurance
 5 coverage under section 5, which shall be made available
 6 for purchase by purchasers under section 5(a)(1) only
 7 through auctions under section 5(a).

8 (b) PURPOSE.—The program shall be designed to
 9 make reinsurance coverage under this Act available to im-
 10 prove the availability of homeowners’ insurance for the
 11 purpose of facilitating the pooling, and spreading the risk,
 12 of catastrophic financial losses from disasters and to im-
 13 prove the solvency of homeowners’ insurance markets.

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

18 (1) shall not displace or compete with the pri-
 19 vate insurance or reinsurance markets or capital
 20 markets;

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

3 (3) shall provide coverage based solely on in-
4 sured losses within the region established pursuant
5 to section 5(a) for which the auction is held.

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

7 Each contract for reinsurance coverage made avail-
8 able under this Act shall provide insurance coverage
9 against residential property losses to homes (including
10 dwellings owned under condominium and cooperative own-
11 ership arrangements) and the contents of apartment
12 buildings.

13 **SEC. 4. COVERED PERILS.**

14 Each contract for reinsurance coverage made avail-
15 able under this Act shall cover losses that are proximately
16 caused by—

17 (1) earthquakes;

18 (2) perils ensuing from earthquakes, including
19 fire and tsunamis; and

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

23 The Secretary shall, by regulation, define the disaster per-
24 ils under this section.

1 **SEC. 5. AUCTION OF CONTRACTS FOR REINSURANCE COV-**
2 **ERAGE.**

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

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

13 (2) **REGIONAL AUCTIONS.**—The auction pro-
14 gram shall provide for auctions on a regional basis.
15 The Secretary shall divide the States into not less
16 than 6 regions for the purpose of holding such re-
17 gional auctions, which shall include separate regions
18 for all or part of the State of California and all or
19 part of the State of Florida. In determining the
20 boundaries for such regions, the Secretary shall con-
21 sider which areas have greater risks of losses from
22 covered perils and which areas have lesser risks of
23 losses from covered perils, and shall attempt not to
24 combine those different types of areas. Auctions for
25 each region shall be conducted not less often than
26 annually.

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

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

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

16 (C) ADMINISTRATIVE COSTS.—A sum suf-
17 ficient to provide for the operation of the Com-
18 mission and the administrative expenses in-
19 curred by the Secretary in carrying out this sec-
20 tion.

21 (D) MITIGATION.—An adjustment based
22 on an actuarial analysis that takes into account
23 any efforts that are being made to reduce losses
24 to property in the region in which the contract
25 is being sold.

1 (4) PRICE GOUGING PROTECTIONS.—The auc-
2 tion program may provide reinsurance coverage for
3 losses incurred only for property located in a State
4 for which the State entity authorized to make such
5 determinations has certified to the Secretary that
6 there are in effect, in such State, laws or regulations
7 sufficient to prohibit price gouging, during the term
8 of such reinsurance coverage, in any disaster area
9 located within the State.

10 (5) MITIGATION REQUIREMENTS.—

11 (A) IN GENERAL.—The auction program
12 shall require each purchaser of a contract, as a
13 condition of such purchase, to contribute an
14 amount, that the Secretary (in consultation
15 with the Director of the Federal Emergency
16 Management Agency) shall establish and which
17 shall not exceed 5 percent of the price paid for
18 the contract, to communities that—

19 (i) are located in the State in which
20 the reinsurance coverage under the con-
21 tract is provided (or in the case of multiple
22 States, among such States, as determined
23 by the Secretary);

24 (ii) are designated by the Director of
25 the Federal Emergency Management

1 Agency and the appropriate emergency
2 management agency for the State as
3 Project Impact communities (for purposes
4 of the pre-disaster mitigation program of
5 such Agency); and

6 (iii) are participating in such pro-
7 grams or initiatives as the Secretary may
8 require that provide incentives for con-
9 struction of structures and communities
10 that are resistant to damage from covered
11 perils, which shall include the Building
12 Code Effectiveness Grading Schedule of
13 the Insurance Services Office.

14 (B) USE OF CONTRIBUTIONS.—Amounts
15 contributed to communities pursuant to the re-
16 quirement under subparagraph (A) shall be
17 used only—

18 (i) for activities to reduce losses from
19 covered perils to properties covered under
20 the reinsurance contract purchased under
21 the auction program that are located in
22 such communities; and

23 (ii) in accordance with such require-
24 ments as the Secretary, in consultation
25 with the Director of the Federal Emer-

1 gency Management Agency and appro-
2 priate State agencies, shall establish to en-
3 sure cost-effective use of such amounts.

4 (C) ALLOCATION.—The Secretary, in con-
5 sultation with the Director of the Federal
6 Emergency Management Agency, shall establish
7 requirements for allocation of contributions
8 among communities eligible under subpara-
9 graph (A) to receive such contributions.

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

14 (b) CONTRACT TERMS AND CONDITIONS.—Each con-
15 tract for reinsurance coverage under this Act shall include
16 the following terms and conditions:

17 (1) MATURITY.—The term of each such con-
18 tract shall not exceed 1 year or such other term as
19 the Secretary may determine.

20 (2) TRANSFERABILITY.—The contract shall at
21 all times be fully transferable, assignable, and divis-
22 ible.

23 (3) THRESHOLD OF COVERAGE.—The contract
24 shall provide that the covered purchaser may receive
25 a payment for losses covered under the contract if,

1 under a process specified in the contract, the Sec-
2 retary determines that the insurance industry will,
3 as a result of a single event of a covered peril, incur
4 losses within the coverage area for the region estab-
5 lished under subsection (a)(2) for which the contract
6 was auctioned that are covered by one or more lines
7 of insurance under section 4 in an aggregate
8 amount, for such event, greater than the level of re-
9 tained losses specified in section 6.

10 (4) MULTIPLE EVENTS.—The contract shall
11 cover any eligible losses from one or more covered
12 events that may occur during the term of the con-
13 tract and shall provide that if multiple events occur,
14 the retained losses requirement under paragraph (3)
15 shall apply to each event.

16 (5) ADDITIONAL CONTRACT OPTION.—The con-
17 tract shall provide that the purchaser of the contract
18 may, during the term of such original contract, pur-
19 chase additional contracts from among those offered
20 by the Secretary at the beginning of the term, sub-
21 ject to the limitations under section 6, at the prices
22 at which such contracts were offered at the begin-
23 ning of the term, prorated based upon the remaining
24 term as determined by the Secretary. Such addi-
25 tional contracts shall provide coverage beginning on

1 a date 15 days after the date of purchase but shall
2 not provide coverage for losses for an event that has
3 already occurred.

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

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

12 (B) authorize the disclosures required
13 under subsection (c)(2).

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

19 (c) GAO AUDIT.—

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

1 (A) the reserve prices established for such
2 contracts;

3 (B) the prices paid for such contracts that
4 are purchased;

5 (C) the prices paid, or compensation pro-
6 vided, in any sales, transfers, assignments, or
7 divisions of any such contracts (or any interests
8 in such contracts) in the secondary market or
9 to any third party; and

10 (D) pursuant to the information obtained
11 under subparagraphs (A) through (C), the ap-
12 propriate reserve prices for such contracts that
13 are to be made available in the succeeding fiscal
14 year.

15 (2) USE OF INFORMATION.—The Secretary
16 shall provide any information referred to in sub-
17 section (b)(6) that is obtained by the Secretary to
18 the Comptroller General, the Director of the Con-
19 gressional Budget Office, and the Director of the Of-
20 fice of Management and Budget, and shall make
21 such information publicly available. The Secretary,
22 the Director of the Congressional Budget Office, the
23 Director of the Office of Management and Budget
24 shall each take such information into consideration
25 in preparing any budget, report, estimate, or rec-

ommendation to the extent it relates to the auction program under this section, and in any determinations relating to the Budget of the United States or the concurrent resolution on the budget (as such term is defined in section 3 of the Congressional Budget Act of 1974). The Secretary shall take such information into consideration in establishing reserve prices for contracts made available under this section.

(d) PRIVATE SECTOR RIGHT TO PARTICIPATE.—

(1) ESTABLISHMENT OF COMPETITIVE PROCEDURE.—The Secretary shall establish, by regulation, a competitive procedure under this subsection that provides qualified entities an opportunity, on a basis consistent with the regional auction procedure and contract cycle established under this section by the Secretary, to offer to provide, in lieu of reinsurance coverage under this Act made available by the Secretary, reinsurance coverage that is substantially similar to such coverage.

(2) COMPETITIVE PROCEDURE.—Under the procedure established under this subsection—

(A) the Secretary shall establish criteria for private insurers, reinsurers, and capital market companies, and consortia of such enti-

1 ties to be treated as qualified entities for pur-
2 poses of this subsection, which criteria shall re-
3 quire such an entity to have at all times capital
4 sufficient to satisfy the terms of the reinsurance
5 contracts and shall include such other industry
6 and credit rating standards as the Secretary
7 considers appropriate;

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

16 (C) the Secretary shall provide qualified
17 entities a period of not less than 10 days (which
18 shall terminate not less than 20 days before the
19 beginning of the auction) to submit to the Sec-
20 retary a written expression of interest in pro-
21 viding reinsurance coverage in lieu of the cov-
22 erage otherwise to be made available under this
23 Act by the Secretary;

24 (D) the Secretary shall provide any quali-
25 fied entity submitting an expression of interest

1 during the period referred to in subparagraph
2 (C) a period of not less than 20 days (which
3 shall terminate before the commencement of the
4 auction) to submit to the Secretary an offer to
5 provide, in lieu of the reinsurance coverage
6 under this Act otherwise to be made available
7 under an auction under this section, coverage
8 that is substantially similar to such coverage;

9 (E) if the Secretary determines that an
10 offer submitted during the period referred to in
11 subparagraph (D) is a bona fide offer to pro-
12 vide reinsurance coverage to be made available
13 during the auction for the same contract cycle
14 and at a reserve price and terms that are sub-
15 stantially similar to the reserve price and terms
16 for reinsurance coverage otherwise to be made
17 available at the auction under this section by
18 the Secretary, the Secretary shall accept the
19 offer (if still outstanding) and, notwithstanding
20 any other provision of this Act, provide that the
21 reinsurance coverage provided by such entity in
22 accordance with the offer shall be made avail-
23 able at the auction; and

24 (F) if the Secretary accepts an offer pur-
25 suant to subparagraph (E) to make reinsurance

1 coverage available at the auction, notwith-
 2 standing any other provision of this Act, the
 3 Secretary shall reduce, to an equivalent extent,
 4 the amount of reinsurance coverage otherwise
 5 to be made available under this Act by the Sec-
 6 retary at the auction, unless and until the Sec-
 7 retary determines that the entity is not com-
 8 plying with the terms of the accepted offer.

9 **SEC. 6. MINIMUM LEVEL OF RETAINED LOSSES AND MAX-**
 10 **IMUM FEDERAL LIABILITY.**

11 (a) AVAILABLE LEVELS OF RETAINED LOSSES.—In
 12 making reinsurance coverage available under this Act, the
 13 Secretary shall make available for purchase contracts for
 14 such coverage that require the sustainment of retained
 15 losses from a single event of a covered peril (as required
 16 under section 5(b)(3) for payment of eligible losses) in var-
 17 ious amounts, as the Secretary, in consultation with the
 18 Commission, determines appropriate and subject to the re-
 19 quirements under subsection (b) of this section.

20 (b) MINIMUM LEVEL OF RETAINED LOSSES.—

21 (1) CUMULATIVE AMOUNT.—Subject to para-
 22 graphs (2), (3), and (4) and notwithstanding any
 23 other provision of this Act, a contract for reinsur-
 24 ance coverage may not be made available or sold
 25 under section 5 through a regional auction unless

1 the contract requires that the insurance industry in
2 the region for which the auction was conducted sus-
3 tains a cumulative amount of retained losses (in cov-
4 ered lines resulting from covered perils) of not less
5 than an amount, determined by the Secretary in
6 consultation with the Commission, that is in the
7 range between the amount equal to the eligible loss
8 projected to be incurred once every 100 years from
9 a single event in the region and the amount equal
10 to the eligible loss projected to be incurred once
11 every 250 years 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 5, 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 2(c)(1).

20 (3) ANNUAL ADJUSTMENT.—The Secretary
21 may annually raise the minimum level of retained
22 losses established under paragraph (1) for a region
23 to reflect, as determined by the Secretary—

1 (A) changes in the capacity of public rein-
2 surance programs or the private insurance and
3 reinsurance market;

4 (B) increases in the market value of prop-
5 erties; or

6 (C) such other situations as the Secretary
7 considers appropriate.

8 The Secretary shall consider the minimum level of
9 retained losses requirement in paragraph (1) as a
10 minimum requirement only and shall have full au-
11 thority, effective on the date of the enactment of this
12 Act, to establish levels of required minimum retained
13 losses in any amount greater than the amounts spec-
14 ified in such paragraph. In making any determina-
15 tion under this paragraph in the minimum level of
16 retained losses, the Secretary shall establish such
17 level at an amount such that the program under this
18 Act for making reinsurance coverage available does
19 not displace or compete with the private insurance
20 or reinsurance markets or capital markets, as deter-
21 mined by the Secretary after the Secretary has pro-
22 vided interested parties an opportunity to submit to
23 the Commission market information relevant to such
24 determination and has provided the Commission

1 with an opportunity to advise the Secretary regard-
2 ing such information and determination.

3 (4) OPTIONAL ANNUAL INFLATIONARY OR EX-
4 POSURE ADJUSTMENT.—The Secretary may, on an
5 annual basis, raise the minimum level of retained
6 losses established under paragraph (1) for each re-
7 gion to reflect the annual rate of inflation or growth
8 in exposures, whichever is greater. Any such raise
9 shall be made in accordance with an inflation index
10 or exposure index, as appropriate, that the Secretary
11 determines to be appropriate. The first such raise
12 may be made one year after contracts for reinsur-
13 ance coverage under this Act are first made avail-
14 able for purchase.

15 (c) MAXIMUM FEDERAL LIABILITY.—

16 (1) IN GENERAL.—Notwithstanding any other
17 provision of law, the Secretary may sell only con-
18 tracts for reinsurance coverage under this Act in
19 various amounts which comply with the following re-
20 quirements:

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

1 (B) ELIGIBLE LOSS COVERAGE SOLD.—El-
2 igible losses covered by all contracts sold within
3 a State or region during a 12-month period do
4 not exceed the difference between the following
5 amounts (each of which shall be determined by
6 the Secretary in consultation with the Commis-
7 sion):

8 (i) The amount equal to the eligible
9 loss projected to be incurred once every
10 500 years from a single event in the State
11 or region.

12 (ii) The amount equal to the eligible
13 loss projected to be incurred once every
14 100 years from a single event in the State
15 or region.

16 (2) ANNUAL ADJUSTMENTS.—The Secretary
17 shall annually adjust the amount under paragraph
18 (1)(A) (as it may have been previously adjusted) to
19 provide for inflation in accordance with an inflation
20 index that the Secretary determines to be appro-
21 priate.

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

24 (1) IN GENERAL.—The Secretary may not
25 make available for purchase contracts for reinsur-

1 ance coverage under this Act that would pay out
2 more than 50 percent of eligible losses in excess of
3 retained losses for the region for which the contract
4 was made available.

5 (2) PAYOUT.—For purposes of this subsection,
6 the amount of payout from a reinsurance contract
7 shall be the amount of eligible losses in excess of re-
8 tained losses multiplied by the percentage under
9 paragraph (1).

10 **SEC. 7. DISASTER REINSURANCE FUND.**

11 (a) ESTABLISHMENT.—There is established within
12 the Treasury of the United States a fund to be known
13 as the Disaster Reinsurance Fund (in this section referred
14 to as the “Fund”).

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

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

18 (2) any amounts borrowed under subsection
19 (d);

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

22 (4) such other amounts as may be credited to
23 the Fund.

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

1 (1) CONTRACT PAYMENTS.—For payments to
2 covered purchasers under contracts for reinsurance
3 coverage under this Act for eligible losses under such
4 contracts.

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

7 (3) ADMINISTRATIVE EXPENSES.—To pay for
8 the administrative expenses incurred by the Sec-
9 retary in carrying out the reinsurance program
10 under this Act.

11 (4) TERMINATION.—Upon termination under
12 section 11, as provided in such section.

13 (d) BORROWING.—

14 (1) AUTHORITY.—To the extent that the
15 amounts in the Fund are insufficient to pay claims
16 and expenses under subsection (c), the Secretary
17 may issue such obligations of the Fund as may be
18 necessary to cover the insufficiency and shall pur-
19 chase any such obligations issued.

20 (2) PUBLIC DEBT TRANSACTION.—For the pur-
21 pose of purchasing any such obligations, the Sec-
22 retary may use as a public debt transaction the pro-
23 ceeds from the sale of any securities issued under
24 chapter 31 of title 31, United States Code, and the
25 purposes for which securities are issued under such

1 chapter are hereby extended to include any purchase
2 by the Secretary of such obligations under this sub-
3 section.

4 (3) CHARACTERISTICS OF OBLIGATIONS.—Obli-
5 gations issued under this subsection shall be in such
6 forms and denominations, bear such maturities, bear
7 interest at such rate, and be subject to such other
8 terms and conditions, as the Secretary shall deter-
9 mine.

10 (4) TREATMENT.—All redemptions, purchases,
11 and sales by the Secretary of obligations under this
12 subsection shall be treated as public debt trans-
13 actions of the United States.

14 (5) REPAYMENT.—Any obligations issued under
15 this subsection shall be repaid, including interest,
16 from the Fund and shall be recouped from pre-
17 miums charged for reinsurance coverage provided
18 under this Act.

19 (e) INVESTMENT.—If the Secretary determines that
20 the amounts in the Fund are in excess of current needs,
21 the Secretary may invest such amounts as the Secretary
22 considers advisable in obligations issued or guaranteed by
23 the United States.

24 (f) PROHIBITION OF FEDERAL FUNDS.—Except for
25 amounts made available pursuant to subsection (d) of this

1 section and section 8(h), no Federal funds shall be author-
2 ized or appropriated for the Fund or for carrying out the
3 reinsurance program under this Act.

4 **SEC. 8. NATIONAL COMMISSION ON CATASTROPHE RISKS**
5 **AND INSURANCE LOSS COSTS.**

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

9 (b) DUTIES.—The Commission shall meet for the sole
10 purpose of advising the Secretary regarding the estimated
11 loss costs associated with the contracts for reinsurance
12 coverage under this Act and carrying out the functions
13 specified in this Act.

14 (c) MEMBERS.—The Commission shall consist of not
15 more than 5 members, who shall be appointed by the Sec-
16 retary and shall be broadly representative of the public
17 interest. Members shall have no personal, professional, or
18 financial interest at stake in the deliberations of the Com-
19 mission. The membership of the Commission shall at all
20 times include at least 1 representative of a nationally rec-
21 ognized consumer organization.

22 (d) TREATMENT OF NON-FEDERAL MEMBERS.—
23 Each member of the Commission who is not otherwise em-
24 ployed by the Federal Government shall be considered a

1 special Government employee for purposes of sections 202
2 and 208 of title 18, United States Code.

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

10 (f) COMPENSATION.—Each member of the Commis-
11 sion who is not an officer or employee of the Federal Gov-
12 ernment shall be compensated at a rate of basic pay pay-
13 able for level V of the Executive Schedule, for each day
14 (including travel time) during which such member is en-
15 gaged in the performance of the duties of the Commission.
16 All members of the Commission who are officers or em-
17 ployees of the United States shall serve without compensa-
18 tion in addition to that received for their services as offi-
19 cers or employees of the United States.

20 (g) OBTAINING DATA.—The Commission and the
21 Secretary may solicit loss exposure data and such other
22 information either deems necessary to carry out its re-
23 sponsibilities from governmental agencies and bodies and
24 organizations that act as statistical agents for the insur-
25 ance industry. The Commission and the Secretary shall

1 take such actions as are necessary to ensure that informa-
2 tion that either deems is confidential or proprietary is dis-
3 closed only to authorized individuals working for the Com-
4 mission or the Secretary. No company which refuses to
5 provide information requested by the Commission or the
6 Secretary may participate in the program for reinsurance
7 coverage authorized under this Act, nor may any State
8 insurance or reinsurance program participate if any gov-
9 ernmental agency within that State has refused to provide
10 information requested by the Commission or the Sec-
11 retary.

12 (h) FUNDING.—

13 (1) AUTHORIZATION OF APPROPRIATIONS.—

14 There are authorized to be appropriated—

15 (A) \$1,000,000 for fiscal year 2006 for the
16 initial expenses in establishing the Commission
17 and the initial activities of the Commission that
18 cannot timely be covered by amounts obtained
19 pursuant to section 5(a)(3)(C), as determined
20 by the Secretary;

21 (B) such additional sums as may be nec-
22 essary to carry out subsequent activities of the
23 Commission;

1 (C) \$1,000,000 for fiscal year 2006 for the
 2 initial expenses of the Secretary in carrying out
 3 the program authorized under section 2; and

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

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

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

19 **SEC. 9. DEFINITIONS.**

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

22 (1) COMMISSION.—The term “Commission”
 23 means the National Commission on Catastrophe
 24 Risks and Insurance Loss Costs established under
 25 section 8.

1 (2) COVERED PERILS.—The term “covered per-
2 ils” means the disaster perils under section 4.

3 (3) COVERED PURCHASER.—The term “covered
4 purchaser” means, with respect to reinsurance cov-
5 erage made available under a contract under section
6 5, the purchaser of the contract auctioned under
7 such section or any subsequent holder or holders of
8 the contract.

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

11 (A) a covered peril has occurred; and

12 (B) a declaration that a major disaster ex-
13 ists, as a result of the occurrence of such
14 peril—

15 (i) has been made by the President of
16 the United States; and

17 (ii) is in effect.

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

22 (6) PRICE GOUGING.—The term “price
23 gouging” means the providing of any consumer good
24 or service by a supplier for a price that the supplier
25 knows or has reason to know is greater, by at least

1 the percentage set forth in a State law or regulation
2 prohibiting such act (notwithstanding any real cost
3 increase due to any attendant business risk and
4 other reasonable expenses that result from the major
5 disaster involved), than the price charged by the
6 supplier for such consumer good or service imme-
7 diately before the disaster.

8 (7) QUALIFIED LINES.—The term “qualified
9 lines” means lines of insurance coverage for which
10 losses are covered under section 3 by reinsurance
11 coverage under this Act.

12 (8) REINSURANCE COVERAGE.—The term “re-
13 insurance coverage under this Act” means coverage
14 under contracts made available under section 5 by
15 the Secretary.

16 (9) SECRETARY.—The term “Secretary” means
17 the Secretary of the Treasury.

18 (10) STATE.—The term “State” means the
19 States of the United States, the District of Colum-
20 bia, the Commonwealth of Puerto Rico, the Com-
21 monwealth of the Northern Mariana Islands, Guam,
22 the Virgin Islands, American Samoa, and any other
23 territory or possession of the United States.

1 **SEC. 10. REGULATIONS.**

2 The Secretary shall issue any regulations necessary
3 to carry out the program for reinsurance coverage under
4 this Act.

5 **SEC. 11. TERMINATION.**

6 (a) IN GENERAL.—Except as provided in subsection
7 (b), the Secretary may not provide any reinsurance cov-
8 erage under this Act covering any period after the expira-
9 tion of the 10-year period beginning on the date of the
10 enactment of this Act.

11 (b) EXTENSION.—If upon the expiration of the period
12 under subsection (a) the Secretary, in consultation with
13 the Commission, determines that continuation of the pro-
14 gram for reinsurance coverage under this Act is necessary
15 to carry out the purpose of this Act under section 2(b)
16 because of insufficient growth of capacity in the private
17 homeowners' insurance market, the Secretary shall con-
18 tinue to provide reinsurance coverage under this Act until
19 the expiration of the 5-year period beginning upon the ex-
20 piration of the period under subsection (a).

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

25 (d) DEFICIT REDUCTION.—The Secretary shall cover
26 into the General Fund of the Treasury any amounts re-

1 maining in the Fund under section 7 upon the repeal of
2 this Act.

3 **SEC. 12. ANNUAL STUDY OF COST AND AVAILABILITY OF**
4 **DISASTER INSURANCE AND PROGRAM NEED.**

5 (a) IN GENERAL.—The Secretary shall, on an annual
6 basis, conduct a study and submit to the Congress a report
7 on the cost and availability of homeowners’ insurance for
8 losses resulting from catastrophic disasters covered by the
9 reinsurance program under this Act.

10 (b) CONTENTS.—Each annual study under this sec-
11 tion shall determine and identify, on an aggregate basis—

12 (1) for each State or region, the capacity of the
13 private homeowners’ insurance market with respect
14 to coverage for losses from catastrophic disasters;

15 (2) for each State or region, the percentage of
16 homeowners who have such coverage, the disasters
17 covered, and the average cost of such coverage;

18 (3) for each State or region, the progress that
19 private reinsurers and capital markets have made in
20 providing reinsurance for such homeowners’ insur-
21 ance;

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

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

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

6 (d) COMMENCEMENT OF REPORTING REQUIRE-
7 MENT.—The Secretary shall first submit an annual report
8 under this section not later than 2 years after the date
9 of the enactment of this Act.

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