I

112TH CONGRESS
2D SESSION

H. R. 6477

To strengthen America's financial infrastructure, by requiring pre-funding for catastrophe losses using private insurance premium dollars to protect taxpayers from massive bailouts, and to provide dedicated funding from insurance premiums to improve catastrophe preparedness, loss prevention and mitigation, and to improve the availability and affordability of homeowners insurance coverage for catastrophic events, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2012

Mr. SIRES introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To strengthen America's financial infrastructure, by requiring pre-funding for catastrophe losses using private insurance premium dollars to protect taxpayers from massive bailouts, and to provide dedicated funding from insurance premiums to improve catastrophe preparedness, loss prevention and mitigation, and to improve the availability and affordability of homeowners insurance coverage for catastrophic events, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Protection Act of 2012".

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

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The economy of the United States, the American taxpayers, and all homeowners need to be better prepared for, and more protected from, major natural catastrophes.

(2) Taking into consideration the current economic and fiscal challenges facing the United States, it is more important than ever to fortify our Nation's financial infrastructure to be fully prepared for major natural catastrophes and to mitigate the risk of catastrophe as much as possible.

(3) In the past, when a natural catastrophe eclipsed the ability of the private industry or a State to manage the loss, or individuals were uninsured or underinsured, the Federal Government has stepped in to provide the funding and services needed for recovery.

(4) The costs of such Federal "bailouts" have been borne by all taxpayers, thereby creating a disincentive to fully prepare for catastrophe and unfairly burdening citizens who live in lower risk communities.

(5) Historically, the budget for Federal Government has assumed there will be no natural disasters, and this lack of pre-funding for catastrophe contributed substantially to annual budget deficits and growing national debt.

(6) The Budget Control Act of 2011 ends an era of unbudgeted recovery assistance and authorizes a fixed level of annual funding for disaster relief.

(7) The amount of future disaster relief funding is capped at the average amount spent on natural disasters during the previous 10 years with the high and low years removed.

(8) By removing the high and low years, the law now caps disaster spending at a level that is less than 60 percent of the amount spent on disaster relief during the previous 10 years.

(9) Natural catastrophes will continue to occur, and the exposure to catastrophe risk is growing. Scientists warn that future catastrophes will inevitably cause losses far in excess of prior events, and these losses could exceed the limited capacity in the private market to cover claims and remain viable to insure properties after massive catastrophic events.

(10) In 2011, the earthquake centered in Virginia that shook the East Coast and Hurricane Irene provided powerful reminders that natural catastrophes can strike unexpectedly and severely damage areas not thought to be at high risk.

(11) Losses caused by natural catastrophes in 2011 reached record levels and affected areas throughout the country.

(12) To successfully transition to a more limited Federal role in post-event disaster funding, communities must be better prepared for future catastrophe, the risk of damage from natural catastrophes must be mitigated and individuals must have

greater access to private market protection against catastrophe risk.

(13) Currently, neither the government, nor communities, nor the private sector are accumulating sufficient resources or procuring sufficient coverage to recover from inevitable future natural catastrophes.

(14) The private insurance market does not have sufficient capacity to efficiently address the timing risk presented by major natural catastrophes, and there is no guarantee that the level of capacity that does exist will continue to be available from one year to the next or that consumers have the resources to adjust to significant price swings in the cost of the capital for available capacity.

(15) Disruptions in insurance availability and affordability will continue to harm economic activity in States exposed to major catastrophes and place significant burdens on residents of these States.

(16) Consumers in many areas around the country cannot find homeowners insurance in the private market, and affordability and availability challenges will grow dramatically when the next major catastrophe strikes.

(17) Hurricane Katrina and other recent catastrophes confirm that the economic harm from natural catastrophes has a disproportionate impact upon the poor and middle class.

(18) A new public-private partnership approach to deal more effectively with major natural catastrophes would more efficiently leverage the public sector and establish a limited, less expensive, more focused role for government while also maximizing the capabilities of the private sector.

(19) A privately funded backstop can provide more protection at lower cost for consumers while also strengthening America's financial infrastructure to deal with natural catastrophes by increasing capacity and providing more market stability after a catastrophe.

(20) Cost savings can lower premiums for consumers and be used to encourage better prevention and mitigation in lieu of post-event bailouts.

(21) A financial backstop can be structured to be fully funded to protect taxpayers from bailouts and insurance policyholders from subsidies upon which the current system relies.

(22) A public-private partnership model, with an appropriately structured backstop, can protect

against the timing risk presented by major natural catastrophes, spread risk more broadly, and enable private direct insurers to underwrite and price insurance for large-scale catastrophes more efficiently and with less risk of insolvency or financial distress while making insurance more available and affordable for consumers.

(23) Private market reinsurers could continue to provide coverage for direct insurers and could participate in providing capacity to the financial backstop.

(24) For the majority of Americans their home is their single biggest asset and protecting that investment is important to the economic health of millions of Americans, to social stability; and to the health of the banking system and broader economy.

(25) The financial crisis of 2008 confirms the value of taking action in advance to strengthen America's financial infrastructure through a privately funded backstop rather than waiting for a future crisis or collapse to take emergency action in the form of bailouts.

(26) It is in the best interests of the Nation to take responsible action now to begin to build a financial backstop that will help protect a recovering

American economy and mitigate the economic or financial shock that could result from a major catastrophic event.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a fully funded program for catastrophe losses to strengthen the financial infrastructure of the United States;

(2) to protect taxpayers from bailouts and subsidies related to the financing of post-catastrophe disaster relief;

(3) to develop a public-private partnership that maximizes the private market capacity to directly provide insurance to consumers with a comprehensive and integrated plan to help homeowners better prepare for and recover from the damages caused by natural catastrophes;

(4) to encourage individuals and communities to adopt mitigation and prevention measures that reduce losses from such catastrophes; and

(5) to expedite the payment of claims and better assist in the financial recovery from such catastrophes.

SEC. 3. DEFINITIONS.

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

(1) ACTUARIALLY SOUND.—The term ''actuarially sound'' means, with respect to premiums, that premiums are determined according to principles of actuarial science to be adequate, but not excessive, in the aggregate to pay current and future obligations, including the expected annualized cost of all claims, loss adjustment expenses, and all administrative costs.

(2) COVERED EVENT.—The term ''covered event'' means the occurrence of one or more of the perils specified in section 102(c) that causes a loss or series of losses.

(3) COVERED STATE.—The term ''covered States'' means, with respect to a State plan, a State covered by the plan.

(4) ELIGIBLE STATE PLAN.—The term ''eligible State plan'' means a State plan or multi-State plan that meets the requirements of section 102(d).

(5) EMERGENCY RESPONSE PROVIDERS.—The term ''emergency response providers'' has the meaning given such term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(6) FUND.—The term ''Fund'' means the Catastrophe Preparedness Fund established under section 102(g).

(7) INSURED LOSS.—The term ''insured loss'' means any loss and associated loss adjustment expense insured or reinsured by an eligible State plan.

(8) LIQUIDITY LOAN.—The term ''liquidity loan'' means a loan to an eligible State plan made under section 103.

(9) MULTI-STATE PLAN.—The term ''multi-State plan'' means a State plan described in paragraph (12)(A)(ii) of this section.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury except as specifically provided otherwise.

(11) STATE.—The term ''State'' includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and American Samoa, and any other territory or possession of the United States.

(12) STATE PLAN.—The term ''State plan'' means a plan that—

(A) is created or administered by—

(i) a single State; or

(ii) two or more States; and

(B) provides insurance or reinsurance protection to address natural catastrophe preparedness and protection, and in the case of a plan described in subparagraph (A)(ii), provides such protection as part of a program covering multiple States.

TITLE I—TAXPAYER PROTECTION, PRE-FUNDED CATASTROPHE RECOVERY, AND MARKET STABILIZATION

SEC. 101. NATIONAL COMMISSION ON NATURAL CATASTROPHE PREPARATION AND PROTECTION.

(a) ESTABLISHMENT.—To effectuate a stronger public-private partnership at the local, State, and national levels regarding natural catastrophe preparation and protection, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall establish a commission to be known as the National Commission on Natural Catastrophe Preparation and Protection (in this title referred to as the ''Commission'').

(b) DUTIES.—The Commission shall meet for the purpose of advising the Secretary regarding the estimated loss costs associated with the contracts for reinsurance protection made available under this title and carrying out the functions specified in this Act, including—

(1) the development and implementation of public education concerning the risks posed by natural catastrophes;

(2) the establishment of a research priority for the development and implementation of prevention, mitigation, recovery, and rebuilding standards, and prudent land-use policies, that better prepare and protect the United States from natural catastrophes;

(3) the establishment of a process for members of the Commission to deploy following every major catastrophe to inspect and evaluate the handling of such catastrophes;

(4) conducting continuous analysis of the effectiveness of this Act and recommending improvements to the Congress so that the costs of providing natural catastrophe protection are decreased and so that the United States is better prepared; and

(5) ensuring that the programs under this title are operated in a financially prudent manner and on an actuarially sound basis consistent with the provisions of this title and is not dependent on subsidy from taxpayers or consumers in areas that do not reside in areas that have a high-risk to natural catastrophe loss, including by monitoring the expenditure of funds for administrative purposes to promote

efficiency and economy in the operation and administration of the program and to minimize the cost for participating States.

(c) MEMBERS.—The Commission shall consist of 11 members, as follows:

(1) HOMELAND SECURITY MEMBER.—The Secretary of Homeland Security or the Secretary's designee.

(2) APPOINTED MEMBERS.—Eleven members appointed by the Secretary of the Treasury, who shall consist of—

(A) one individual who is an actuary;

(B) one individual who is employed in engineering;

(C) one individual representing the scientific community;

(D) one individual representing property and casualty insurers;

(E) one individual representing reinsurers;

(F) one individual representing the Federal Insurance Office of the Department of the Treasury;

(G) one individual who is a member or former member of the National Association of Insurance Commissioners;

(H) two individuals who are consumers, including one consumer who is a homeowner who resides in an area with relatively high exposure to natural catastrophe risk and one consumer who resides in an area with relatively low exposure to natural catastrophe risk;

(I) one individual who is an emergency response expert; and

(J) one individual with expertise regarding capital markets.

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

(e) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services from individuals or groups recognized as experts in the fields of actuarial science, meteorology, seismology, vulcanology, geology, structural engineering, wind engineering, seismic engineering and hydrology, emergency response, and other fields, under section 3109(b) of title 5, United States Code, but at rates not in excess of the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule, for each day during which the individual procured is performing such services for the Commission. The Commission may also procure, and the Congress encourages the Commission to procure, experts from universities, research centers, foundations, and other appropriate organizations that could study, research, and develop methods and mechanisms that could be utilized to strengthen structures to better withstand the perils covered by this Act.

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

(g) OBTAINING DATA.—

(1) AUTHORITY.—The Commission and the Secretary may solicit loss and exposure data and such other information that they deem necessary to carry out their responsibilities under this Act from eligible State plans, other governmental agencies, and bodies and organizations that act as statistical

agents for the insurance industry. The Commission and the Secretary shall take such actions as are necessary to ensure that confidential or proprietary information is disclosed only to authorized individuals working for the Commission or the Secretary.

(2) CONFIDENTIALITY.—

(A) IN GENERAL.—Information obtained by the Commission and the Secretary pursuant to this Act with reference to which a request for confidential treatment is made by the person furnishing such information—

(i) shall be exempt from disclosure under section 552 of title 5, United States Code; and

(ii) shall not be published or disclosed.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the publication or disclosure of any data aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(1) $10,000,000 for fiscal year 2013 for the initial expenses in establishing the Commission and the initial activities of the Commission during such fiscal

year that cannot timely be covered by amounts that are deposited in the Fund pursuant to section 102(e)(5)(D); and

(2) for fiscal year 2014 and each fiscal year thereafter, such sums as may be necessary to carry out the activities of the Commission during each such fiscal year that cannot timely be covered by amounts that are deposited in the Fund pursuant to section 102(e)(5)(D).

(i) TERMINATION.—The Commission shall terminate upon the date specified in section 104(c).

SEC. 102. PRE-FUNDED AND PRIVATELY FINANCED CATASTROPHE RECOVERY PROGRAM.

(a) PROGRAM AUTHORITY.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall carry out a program under this section that utilizes premiums from eligible State plans to provide additional capacity and stability in the homeowners insurance market and improve the availability and affordability of homeowners protection coverage to pre-fund future natural catastrophe recovery by making available for purchase, only by eligible State plans, contracts for reinsurance coverage under this section.

(2) PURPOSE.—The program shall make available privately funded reinsurance coverage under this section—

(A) to protect taxpayers from financing the cost of bailouts after natural catastrophes;

(B) to diversify and spread risk more efficiently and leverage the economies of pooling reinsurance arrangements from different geographical areas of the country covering the perils specified in subsection (c);

(C) to generate additional capacity and provide stability to the homeowners insurance market by encouraging States to develop or expand plans that address current market challenges and assist homeowners in securing needed protection;

(D) to improve the availability and affordability of homeowners insurance for the purpose of privately financing post-catastrophe recovery by facilitating the pooling and spreading the risk of catastrophic financial losses from natural catastrophes;

(E) to improve the solvency, capacity, and stability of homeowners insurance markets;

(F) to encourage the development and implementation of mitigation, prevention, recovery, and rebuilding standards to reduce future catastrophe losses; and

(G) to analyze and recommend methods to continuously improve the way the United States prepares for, reacts to, and responds to catastrophes, including improvements to the Catastrophe Preparedness Fund established under section 102(g).

(3) CONTRACT PRINCIPLES.—Under the program under this section, the Secretary shall offer reinsurance coverage through contracts with eligible State plans, which contracts shall—

(A) be priced on an actuarially sound basis as specified in this section; and

(B) provide coverage based solely on insured losses within the State or States participating in the eligible State plan purchasing the contract.

(b) QUALIFIED LINES OF COVERAGE.—Each contract for reinsurance coverage made available under this section shall provide coverage for insured property losses covered under primary insurance contracts to homeowners, mobile home owners, renters, and condominium owners for covered perils. Nothing in this Act shall be interpreted to expand the terms, conditions, or scope of coverage or perils covered under insurance policies issued by insurers or eligible State plans.

(c) COVERED PERILS.—

(1) IN GENERAL.—Each contract for reinsurance coverage made available under this section shall cover losses insured or reinsured by the eligible State plan purchasing the contract that are proximately caused by—

(A) earthquakes;

(B) perils ensuing from earthquakes, including fire and tsunami-related flood;

(C) catastrophic wildfires unrelated to earthquakes;

(D) tropical cyclones having maximum sustained winds of at least 74 miles per hour, including hurricanes and typhoons;

(E) tornadoes;

(F) volcanic eruptions;

(G) catastrophic winter storms; and

(H) any other natural catastrophe insured or reinsured under the eligible State plan purchasing the contract.

(2) DEFINITIONS.—The Secretary shall, by regulation, define the natural catastrophe perils identified under this subsection.

(d) ELIGIBLE STATE PLANS.—A State plan shall be an eligible State plan for purposes of this section only if the State plan meets all of the following requirements:

(1) PROGRAM DESIGN.—The entity for the covered State or States that is authorized to make such determinations certifies to the Secretary that the State plan is a program, established by the covered State or States, that provides—

(A) insurance coverage for insured property losses covered under primary insurance contracts for residential property located in any covered State; or

(B) reinsurance coverage that is designed to improve availability or affordability, or both, in the private insurance markets that offers coverage for insured property losses covered under primary insurance contracts for residential property located in any covered State.

(2) OPERATION.—The entity for the covered State or States that is authorized to make such determinations certifies to the Secretary that the State plan complies with the following requirements:

(A) ESTABLISHMENT; GOVERNING BODY.—The State plan shall be established by the covered State or States and a majority of the members of the governing body of the State plan shall be public officials or appointed by public officials.

(B) REPAYMENT.—If any covered State has at any time appropriated amounts from the fund of the State plan for any purpose other than payments made in connection with the activities authorized under the State plan, the State shall have repaid such amounts to the State fund, together with interest on such amounts.

(C) NONDISCRIMINATION IN COVERAGE.—Insurance or reinsurance coverage, as applicable, provided under the eligible State plan shall be made available on a nondiscriminatory basis to all qualifying residents of any covered State.

(D) PROHIBITION OF CROSS-SUBSIDIZATION.—The State plan may not, except for charges or assessments related to post-event financing or bonding, involve cross-subsidization between any separate property and casualty lines covered under the plan.

(E) REINSURANCE PREMIUMS.—In the case of State plans providing reinsurance coverage, the plan or the law in effect in each covered State shall require that to the extent that reinsurance coverage made available under the program under this section results in cost savings in providing insurance coverage for risks in such State, such cost savings be reflected in premium rates charged to consumers for such coverage.

(F) TERMINATION.—The State plan shall include provisions that authorize the entity for the covered State or States that is authorized to make such a determination to terminate the State plan or, in the case of a multi-State plan, membership in such Plan, if such entity determines that the State plan is no longer necessary to ensure the availability or affordability of residential property insurance for all residents of any covered State.

(G) ACTUARIAL SOUNDNESS.—Insurance or reinsurance coverage, as applicable, made available by the State plan shall be provided at actuarially sound rates.

(3) TREATMENT OF EARNINGS.—The entity for the covered State or States that is authorized to make such determinations certifies to the Secretary that the State plan does not provide for redistribution of any part of any net profits under the State plan to any insurer that participates in the State plan.

(4) SUPPORT FOR MITIGATION AND PREVENTION.—

(A) REQUIREMENTS.—Except as provided in subparagraph (B), the Secretary determines that, for any year for which the coverage is in effect, the provision of reinsurance coverage under the program under this section to the State plan supports mitigation and prevention of risk associated with covered events and that the State plan meets all of the following requirements:

(i) BUILDING, FIRE, AND SAFETY CODES.—Each covered State has in effect, or appropriate local governments within each covered State have in effect, and enforce building, fire, and safety codes and standards that offer risk responsive resistance to earthquakes or high winds.

(ii) MITIGATION.—Each covered State has taken actions to mitigate losses caused by natural disasters.

(iii) PROHIBITION OF PRICE GOUGING.—Each covered State has in effect laws or regulations sufficient to prohibit price gouging, during the term of reinsurance coverage provided under the program under this section for the State plan in any disaster area located within the covered State.

(iv) HOMEOWNERS INSURANCE RATES.—For any covered State that has in effect laws that require insurers providing homeowners insurance to file their rates for review or regulatory approval, the covered State has certified that homeowners insurance rates associated with catastrophe coverage for covered perils are actuarially sound.

(v) LAND USE AND ZONING PLANS.—Each covered State, to the extent feasible, shall encourage State and local government units to develop, implement, and enforce comprehensive land use and zoning plans that are designed to limit additional natural hazard exposure and promote natural hazard mitigation.

(vi) EMERGENCY PREPAREDNESS ACTIONS.—Each covered State, in consultation and cooperation with localities in the State, the Administrator of the Federal Emergency Management Agency, and other appropriate agencies and organizations, shall have taken actions to continuously improve emergency preparedness.

(B) TRANSITION PERIOD.—To provide sufficient time for adoption of the provisions of this subsection and to support implementation of prevention and mitigation measures set forth in subparagraph (A) of this paragraph, during the 5-year period that begins on the date of the enactment of this Act, a State plan shall not be precluded from qualifying as an eligible State plan because the Secretary is unable to make any of the determinations required under subparagraph (A).

(e) TERMS OF REINSURANCE CONTRACTS.—Each contract for reinsurance coverage under this section shall be subject to the following terms and conditions:

(1) MATURITY.—The contract shall have a minimum term of 1 year or such longer duration as the Secretary may determine.

(2) PAYMENT CONDITION.—The contract shall authorize claims payments only for eligible losses to the eligible State plan purchasing the coverage.

(3) RETAINED LOSSES REQUIREMENT.—For each covered event, the contract shall not reimburse any losses until the total incurred covered losses exceeds the applicable attachment point established pursuant to subsection (f)(2).

(4) MULTIPLE EVENTS.—The contract shall cover any eligible losses from one or more covered events that may occur during the term of the contract and shall provide that if multiple events occur, the retained losses requirement under paragraph (f) shall apply in the aggregate and not separately to each individual event.

(5) PRICING.—The price of reinsurance coverage under the contract shall be an amount established by the Secretary as follows:

(A) RECOMMENDATIONS.—The Secretary shall take into consideration the recommendations of the Commission in establishing the price, but the price may not be less than the amount recommended by the Commission.

(B) FAIRNESS TO TAXPAYERS.—The price shall be established at an actuarially sound level that protects taxpayers from liability and takes into consideration models that estimate losses from covered events.

(C) SELF-SUFFICIENCY.—The rates for reinsurance coverage for an eligible State plan shall be established at an actuarially sound level that produces expected premiums sufficient to pay—

(i) the expected annualized cost of all claims;

(ii) loss adjustment expenses;

(iii) the cost of funding emergency preparedness and mitigation efforts; and

(iv) the costs of operating the Commission and all administrative costs of reinsurance coverage offered under this subsection.

The expected annualized cost of all claims shall be comparable to amounts being included in the price for similar layers of coverage in the private sector, taking into account the savings associated with the funding mechanisms and the non-profit and tax-exempt status of the Fund.

(D) OFFSET.—The Secretary shall ensure, to the maximum extent practicable, that in each fiscal year an amount equal to any amount appropriated pursuant to section 101(h) for such fiscal year is obtained from purchasers of reinsurance coverage under this section by incorporating the costs described in subparagraph (C)(iv) of this paragraph into the pricing of the contracts for such coverage.

(6) TAXPAYER PROTECTION, RAPID CASH BUILD-UP, AND POST-EVENT PRICING ADJUSTMENTS.—

(A) FIRST 5 YEARS.—Notwithstanding any other provision of this section, during the first five years of the program under this section, the Secretary shall increase the price that is charged for reinsurance coverage provided under the program under this section by at least five percent, or such higher amount as the Secretary deems, above the actuarially sound price calculated under paragraph (5), to facilitate and accelerate the accumulation of reserves and to support the creation of the readiness, preparedness, and mitigation grant program under section 201.

(B) POST-EVENT.—Notwithstanding any other provision of this section, after any covered event triggering any payment under a contract for reinsurance coverage that requires the Fund to issue obligations under subsection (g)(4) to make such payment and to provide additional taxpayer protection and ensure that the program under this section is fully funded on an ongoing basis, the Secretary shall require the inclusion of an additional amount in the price that is charged for reinsurance coverage provided under the program equal to at least five percent of the actuarially sound price calculated under paragraph (5) to ensure that the program collects all revenue necessary—

(i) to provide the reinsurance coverage authorized under this section;

(ii) to administer the program under this section, and

(iii) to account for any losses paid with funds acquired from obligations issued under subsection (g)(4) during a period having a duration not longer than five years, if feasible.

Any such obligations issued under subsection (g)(4) shall be repaid in full from the surcharges assessed under this paragraph.

(7) ECONOMIC FAIRNESS.—The Secretary may establish criteria and include provisions in the contract that limit the pricing benefits under the program under this section for properties that exceed a value determined by the Secretary to represent affluent property owners who do not need the benefit of the program.

(8) INFORMATION.—The contract shall contain a condition providing that the Commission may require the eligible State plan that is covered under the contract to submit to the Commission all information regarding the eligible State plan relevant to the duties of the Commission, as determined by the Secretary.

(9) ADDITIONAL CONTRACT OPTION.—The contract shall provide that the purchaser of the contract may, during the term of such original contract, purchase additional contracts from among those offered by the Secretary at the beginning of the term, subject to the limitations under subsection (f), at the

prices at which such contracts were offered at the beginning of the term, prorated based upon the remaining term as determined by the Secretary. Such additional contracts shall provide coverage beginning on a date 15 days after the date of purchase, but shall not provide coverage for losses for an event that has already occurred. Eligible State plans may arrange for prospective contracts for planning purposes and to enhance stability and predictability in managing risk and accounting for costs associated with risk transfer.

(10) OTHER TERMS.—The contract shall contain such other terms as the Secretary considers necessary to carry out this Act and to ensure the long-term financial integrity of the program under this section. The contract shall also specify how payouts shall be administered if multiple events occur that affect more than one eligible State plan.

(11) PRIVATE SECTOR RIGHT TO PARTICIPATE.—

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

(B) COMPETITIVE PROCEDURE.—Under the procedure established under this paragraph—

(i) the Secretary shall establish criteria for private insurers, reinsurers, and capital market companies, and consortia of such entities to be treated as qualified entities for purposes of this paragraph, which criteria shall require such an entity to have at all times capital sufficient to satisfy the terms of the reinsurance contracts and shall include such other industry and credit rating standards as the Secretary considers appropriate;

(ii) not less than 30 days before the beginning of each contract cycle during which any reinsurance coverage under this section is to be made available, the Secretary may request proposals and shall publish in the Federal Register the rates and terms for contracts for coverage under this section that are to be made available during such contract cycle;

(iii) the Secretary shall provide qualified entities a period of not less than 10 days (which shall terminate not less than 20 days before the beginning of the contract cycle) to submit to the Secretary a written expression of interest in providing reinsurance coverage in lieu of the coverage otherwise to be made available under this section;

(iv) the Secretary shall provide any qualified entity submitting an expression of interest during the period referred to in clause (iii) a period of not less than 20 days (which shall terminate before the beginning of the contract cycle) to submit to the Secretary an offer to provide, in lieu of the reinsurance coverage otherwise to be made available under this section, coverage that is substantially similar to such coverage;

(v) if the Secretary determines that an offer submitted during the period referred to in clause (iii) is a bona fide offer to provide reinsurance coverage during the contract cycle at rates and terms that are substantially similar to the rates and terms for reinsurance coverage otherwise to be provided under this section by the Secretary, the Secretary shall accept the offer (if still outstanding) and, notwithstanding any other provision of this Act, provide for such entity to make reinsurance coverage available in accordance with the offer; and

(vi) if the Secretary accepts an offer pursuant to clause (v) to make reinsurance coverage available, notwithstanding any other provision of this Act, the Secretary shall reduce, to an equivalent extent, the amount of reinsurance coverage available under this section during the contract cycle to which the offer relates, unless and until the Secretary determines that the entity is not complying with the terms of the accepted offer.

(12) PARTICIPATION BY MULTI-STATE PLANS.—The Congress hereby explicitly encourages States to create and maintain catastrophe funds for their States or with other States, and nothing in this Act may be interpreted to prohibit or discourage the creation of multi-State plans, or the participation by such plans in the program established pursuant to subsection (a). The Secretary shall, by regulation, provide for the application of the provisions of this Act to multi-State catastrophe insurance and reinsurance plans. The Commission shall develop a process to evaluate and encourage the creation of regional programs and approaches to advance the purposes of this Act through the establishment of multi-State plans.

(f) TREATMENT OF INSURED LOSSES AND MAXIMUM FEDERAL LIABILITY.—

(1) AVAILABLE LEVELS OF RETAINED LOSSES.—In making reinsurance coverage available under this section, the Secretary shall make available for purchase contracts for such coverage that require the sustainment of retained losses from covered events (as required under subsection (e)(3) for payment of eligible losses) in various amounts, as the Secretary, in consultation with the Commission,

determines appropriate and subject to the requirements under paragraph (2).

(2) STANDARD ATTACHMENT POINT.—

(A) ESTABLISHMENT.—The Secretary, in consultation with the Commission, shall establish a standard attachment point at which coverage is provided to eligible State plans for all contracts.

(B) CONSIDERATIONS.—In setting a standard attachment point, the Secretary and the Commission shall take into consideration—

(i) how many and which eligible State plans are seeking contracts for reinsurance coverage under this section;

(ii) the capital and surplus positions of the eligible State plans;

(iii) the coverage preferences of eligible State plans;

(iv) the availability and price of reinsurance in the private market;

(v) that pooling reinsurance from different geographic locations and covering different perils is more efficient than stand-alone programs;

(vi) affordability of homeowners insurance; and

(vii) other factors deemed appropriate to operating a long-term national reinsurance backstop program.

(C) USE.—The standard attachment point established pursuant to this paragraph shall be used in establishing reinsurance contracts for each eligible State plan, unless the Secretary, in consultation with the Commission, determines that market conditions or the financial position of an eligible State plan warrants a lower attachment point in a contract for such eligible State plan in a given year.

(D) LOWER ATTACHMENT POINTS.—If a reinsurance contract is contemplated for an eligible State plan having an attachment point lower than the standard attachment point, the cost of such contract shall include or otherwise take into account the additional costs associated with such additional layer of protection.

(3) CEILING COVERAGE LEVEL.—Notwithstanding any other provision of law and subject to any limitations in future appropriations Acts, the aggregate potential liability for payment of claims

under all contracts for reinsurance coverage sold under this title to any single eligible State plan during a 12-month period shall not exceed the difference between—

(A) the amount equal to the covered loss projected to be incurred once every 600 years from a single event by the eligible State plan; and

(B) the amount equal to the cash available in the eligible State plan to pay covered losses.

(g) CATASTROPHE PREPAREDNESS FUND FOR PRE-FUNDING PREPAREDNESS AND RECOVERY.—

(1) ESTABLISHMENT.—There is established within the Treasury of the United States a fund to be known as the ‘‘Catastrophe Preparedness Fund’’.

(2) CREDITS.—The Fund shall be credited with—

(A) amounts received from the sale of contracts for reinsurance coverage under this section;

(B) any amounts borrowed under paragraph (4);

(C) any amounts earned on investments of the Fund pursuant to paragraph (5); and

(D) such other amounts as may be credited to the Fund.

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

(A) CONTRACT PAYMENTS.—For payments to covered purchasers under contracts for reinsurance coverage under this section for eligible losses under such contracts.

(B) COMMISSION COSTS.—For the operating costs of the Commission.

(C) ADMINISTRATIVE EXPENSES.—For the administrative expenses incurred by the Secretary in carrying out the reinsurance program under this Act.

(D) COST OF NATIONAL READINESS, PREPAREDNESS, AND MITIGATION COMMITTEE.—For the operating costs of the National Readiness, Preparedness, and Mitigation Committee established under section 201 and for disbursements under section 201(f)(2) for disaster readiness, preparedness, prevention, and mitigation.

(E) TERMINATION.—Upon termination under section 104, as provided in such section.

(4) LIQUIDITY.—

(A) AUTHORITY.—To the extent that the amounts in the Fund are insufficient to pay claims and expenses under paragraph (3), the Secretary may issue such obligations of the Fund as may be necessary to cover the insufficiency and shall purchase any such obligations issued.

(B) PUBLIC DEBT TRANSACTION.—For the purpose of purchasing any such obligations, the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities are issued under such chapter are hereby extended to include any purchase by the Secretary of such obligations under this paragraph.

(C) CHARACTERISTICS OF OBLIGATIONS.—Obligations issued under this paragraph shall be in such forms and denominations, bear such maturities, bear interest at such rate and be subject to such other terms and conditions as the Secretary shall determine.

(D) TREATMENT.—All redemptions, purchases, and sales by the Secretary of obligations under this paragraph shall be treated as public debt transactions of the United States.

(E) REPAYMENT.—Any obligations issued under this paragraph shall be repaid, including interest, from the Fund and shall be recouped from surcharges under subsection (e)(6)(B) on premiums for reinsurance coverage provided under this section.

(5) INVESTMENT.—The Secretary shall invest accumulated amounts in the Fund as the Secretary considers advisable in obligations issued or guaranteed by the United States.

(6) PROHIBITION ON FEDERAL APPROPRIATIONS.—Except for amounts made available pursuant to paragraph (4)(A) of this subsection and section 101(h), no Federal funds shall be authorized or appropriated for the Fund or for carrying out the reinsurance liquidity protection program under this section.

SEC. 103. POST-CATASTROPHE MARKET STABILIZATION PROGRAM FOR LIQUIDITY LOANS.

(a) PURPOSES.—The purposes of this section are to establish a program—

(1) to expedite the payment of claims under State catastrophe insurance programs and better as-

sist the financial recovery from significant natural catastrophes by authorizing the Secretary to issue loans for such purposes; and

(2) to promote the availability of private capital to provide liquidity and capacity to State catastrophe insurance programs and to augment the efforts of such programs.

(b) LIQUIDITY LOANS.—The Secretary may make liquidity loans under this section to State plans for the purposes of this section, and shall have the powers and authorities necessary to make such loans, subject to the requirements of this section.

(c) CONDITIONS FOR LOAN ELIGIBILITY.—A loan under this section may be made to a State plan only if—

(1) the plan has a capital liquidity shortage, in accordance with regulations that the Secretary shall establish, such that the obligations of the plan resulting from a covered event exceed the amount of cash available to the plan to pay covered losses;

(2) the plan cannot access capital in the private market at a cost lower and for similar duration than that provided under a loan under this section, as determined by the Secretary; and

(3)(A) the plan is an eligible State plan; or

(B) the loan complies with the requirements under subsection (e).

The Secretary may not require an eligible State plan to purchase reinsurance coverage made available under the program under section 102 to be eligible for a liquidity loan under this section.

(d) STATES WITH ELIGIBLE STATE PLANS.—

(1) CONTRACTS.—The Secretary may enter into contracts with eligible State plans to carry out the purposes of this section by providing for liquidity loans for such plans, as the Secretary may deem appropriate.

(2) ELIGIBLE STATE PLAN PRE-CERTIFICATION.—The Secretary shall establish procedures and standards for State plans to apply to the Secretary at any time for pre-certification (and recertification) as eligible State plans, which procedures and standards shall provide as follows:

(A) The Secretary shall administer the pre-certification (and recertification) of State plans as eligible State plans.

(B) State plans that are pre-certified as eligible State plans may enter into contracts described in paragraph (1).

(3) INTEREST RATE.—Subject to subsection (h), a liquidity loan made under this section to an eligible State plan shall bear interest at an annual rate to be established by the Secretary, in consultation with the Commission, which shall be equal to the rate of interest on State and local government series securities have the same duration as the liquidity loan outstanding as of the date the loan is made.

(4) MANDATORY ASSISTANCE FOR ELIGIBLE STATE PLANS.—The Secretary shall, upon the request of an eligible State plan and subject to paragraphs (1) and (2) of subsection (c), make a loan for such plan in the amount requested by such plan (subject to the limitations under subsection (f)).

(e) STATES WITHOUT ELIGIBLE STATE PLANS.—

(1) AUTHORITY.—Subject to subsection (c), the Secretary may make a liquidity loan under this section to a State plan that is not an eligible State plan, but only if the Secretary determines that—

(A) the loan is necessary to avoid a capital shortfall; and

(B) the provisions providing for repayment of the loan are comparable in providing protection to taxpayers as provisions providing for repayment of liquidity loans under this section by eligible State plans.

(2) INTEREST RATE.—Subject to subsection (h), a liquidity loan made under this section to a State plan that is not an eligible State plan shall bear interest at an annual rate that exceeds the rate required under subsection (d)(3) for a loan made to an eligible State plan. Such rate shall be determined in accordance with a schedule of interest rates, which shall be established by the Secretary and shall provide lower rates for loans to State plans that comply with more of the requirements for eligible State plans under section 102(d) and higher rates for loans to State plans that comply with fewer of such requirements.

(f) AMOUNT.—The principal amount of a liquidity loan under this subsection may not exceed the difference between the applicable attachment point as determined by the Secretary in section 102(f)(2) and the amount of funds the eligible State plan had to pay losses at the time of the covered event for which the loan is made.

(g) USE.—Amounts from a liquidity loan under this section may be used only to pay losses covered by the State plan to which the loan is made.

(h) EXCEPTION TO INTEREST RATE LIMITATION.—In the case of liquidity loan under this section made pursuant to a large covered event that occurs early in the existence of a State plan, the Secretary may charge an interest rate for the loan that allows the State plan to repay the loan and interest without causing significant increases in the cost of insurance for covered perils in the covered State or States.

(i) PREMIUMS UNDER STATE PLAN.—

(1) DETERMINATION OF ACTUARIALLY SOUND PREMIUMS.—In making a request for a liquidity loan under this section, a State plan shall determine, and the Secretary, in consultation with the Commission, shall approve, a premium amount for the coverage layer under the State plan for which the liquidity loan is sought that is actuarially sound.

(2) CHARGEABLE PREMIUMS.—Unless otherwise provided by the Secretary, a State plan shall charge, for the coverage layer under the State plan for which the liquidity loan is made an annual premium, for coverage during the period that begins upon the making of the liquidity loan and ends upon full repayment of the loan, in an amount that is not less than 150 percent of the actuarially sound premium determined pursuant to paragraph (1).

(j) REPAYMENT OF LOANS.—

(1) IN GENERAL.—Any liquidity loan made under this section to a State plan shall be repaid solely through premiums charged by such plan in accordance with subsection (i)(2), unless alternative arrangements have been made pursuant to paragraph (3). The Secretary, in consultation with the Commission, shall determine the expected duration of each loan and monitor repayment of such loans.

(2) AMOUNT OF PAYMENT.—To repay a liquidity loan under this section, the State plan shall pay to the Fund, from all amounts collected for the coverage layer referred to in subsection (i)(2) during the period referred to in such subsection, an amount equal to a minimum of 100 percent of the actuarially sound premium determined under subsection (j)(1) for such coverage layer, and shall retain the remainder of such amount collected to build reserves for future events, or such other amount or percentage of such amounts as the Secretary, in consultation with the Commission and State plans, determines is appropriate.

(3) OTHER OPTIONS.—A State plan may petition the Secretary for other repayment terms, including repayment from sources such as dedicated

State sales taxes or other means, and the Secretary may, in consultation with the Commission, agree to such other terms.

(k) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out the program under this section.

SEC. 104. TERMINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not—

(1) provide any new reinsurance coverage under section 102 that covers any period after the expiration of the 20-year period beginning on the date of the enactment of this Act; or

(2) make any new liquidity loan under section 103 having a term to maturity that concludes after the expiration of such 20-year period.

(b) EXTENSION.—If upon the expiration of the period under subsection (a) the Secretary, in consultation with the Commission, determines that continuation of the program for reinsurance coverage under section 102 or for liquidity loans under section 103 is necessary or appropriate to carry out the purposes this Act because of insufficient growth of capacity in the private homeowners insurance market, the Secretary shall continue to make such coverage and loans available and subsection (a) shall be applied by substituting ''25-year period'' for ''20-year period'' each place such term appears.

(c) REPEAL.—Effective upon the first date that reinsurance coverage under section 102 is no longer available or in force and that liquidity loans under section 103 are no longer available or outstanding, pursuant to subsection (a) or (b), this Act (except for this section) is repealed.

(d) DEFICIT REDUCTION.—The Secretary shall pay into the General Fund of the Treasury any amounts remaining in the Fund upon the repeal of this Act under subsection (c).

TITLE II—DISASTER READINESS, CITIZEN AND COMMUNITY PREPAREDNESS, AND MITIGATION

SEC. 201. NATIONAL READINESS, PREPAREDNESS, AND MITIGATION COMMITTEE.

(a) ESTABLISHMENT.—There is established a National Readiness, Preparedness and Mitigation Committee (in this section referred to as the ''Committee'').

(b) MEMBERS.—The Committee shall consist of 9 members appointed by the Secretary of Housing and Urban Development or the Secretary's designee, as follows:

(1) Three individuals from nationally recognized organizations representing State or local disaster response providers or disaster management professionals.

(2) Three individuals representing nationally recognized non-profits active in disaster preparedness and response.

(3) Three individuals representing nationally recognized organizations with expertise in contingency planning, residential construction, building code development and implementation, and land use policy.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Committee shall be appointed for a term of 3 years.

(2) INITIAL MEMBERS.—Of the members initially appointed to the Committee—

(A) one member appointed under each of paragraphs (1), (2), and (3) of subsection (b) shall be appointed for a term of 1 year;

(B) one member appointed under each of paragraphs (1), (2), and (3) of subsection (b) shall be appointed for a term of 2 years; and

(C) one member appointed under each of paragraphs (1), (2), and (3) of subsection (b) shall be appointed for a term of 3 years.

(3) VACANCIES.—A member appointed to fill an unexpired term shall serve the remainder of that term.

(4) TERMINATION.—In the event that the Committee terminates, all appointments shall terminate.

(d) PROHIBITION OF COMPENSATION; REIMBURSEMENT.—Members of the Committee shall receive no compensation by reason of their service on the Committee, but shall be reimbursed as provided by rules and by-laws established by the National Commission on Natural Catastrophe Preparation and Protection established under section 101.

(e) DUTIES.—The members of the Committee shall administer the program under subsection (f) and conduct oversight of the program and activities under such program.

(f) READINESS, PREPAREDNESS, AND MITIGATION GRANT PROGRAM.—

(1) ALLOCATION OF AMOUNT.—Beginning upon the expiration of the 12-month period that begins on the date of the enactment of this Act, the Secretary shall ensure that, to the extent provided in appro-

priation Acts, approximately 35 percent of the annual net investment income of the Fund under sec. 102(g), but not less than $15,000,000, and not more than 20 percent of the premium charged for reinsurance coverage under section 102 in any given year, shall be used for grants to States, units of local government, nonprofit organizations, and other appropriate public and private entities to develop, enhance, or maintain programs and initiatives to improve and maintain disaster response, citizen preparedness and protection, and prevention and mitigation of losses from natural catastrophes.

(2) PROGRAM ELEMENTS.—The amounts made available under paragraph (1) shall be allocated for each of the following purposes in equal amounts:

(A) DISASTER RESPONSE READINESS.—For disaster response readiness programs, which shall include national initiatives that develop, enhance, or maintain the capacity of a public safety agency or other organization to be better prepared, equipped, and trained to respond to natural catastrophes.

(B) CITIZEN AND COMMUNITY PREPAREDNESS.—For citizen and community preparedness, which shall include programs and initiatives, such as those offered by the American Red Cross, to improve education and training to ensure that citizens and organizations in their community are better prepared for natural catastrophes.

(C) PREVENTION AND MITIGATION.—For prevention and mitigation of loss from natural catastrophes, which shall include methods to reduce loss of life and property, including appropriate measures to—

(i) encourage awareness of the risk factors and what steps can be taken to eliminate or reduce them;

(ii) identify location of risks, by giving careful consideration to the natural risks for the location of the property before allowing construction and considerations if structures are allowed; and

(iii) provide for construction relative to the risk and hazards, including—

(I) establishment and adoption of State mandated building codes appropriate for the risk;

(II) adequate enforcement of the risk-appropriate building codes, including inspections of homes to identify areas to strengthen such homes and reduce exposure to natural catastrophes;

(III) use of building materials that prevent or significantly lessen potential damage from the natural catastrophes;

(IV) use of building methods that prevent or significantly lessen potential damage from the natural catastrophes; and

(V) focusing on prevention and mitigation for any substantially damaged structure, with an emphasis on how structures can be retrofitted to make them compliant with building codes.

(g) CONTINUOUS IMPROVEMENT, COORDINATION AND INTEGRATION.—The National Commission on Natural Catastrophe Preparation and Protection established under section 101 shall work with eligible State plans and the Committee to continuously improve, coordinate, and integrate disaster readiness, citizen and community preparedness, and loss prevention and mitigation at the local, State, regional, and national levels.

○