

113TH CONGRESS
1ST SESSION

H. R. 240

To establish a program to provide reinsurance for State natural catastrophe insurance programs to help the United States better prepare for and protect its citizens against the ravages of natural catastrophes, to encourage and promote mitigation and prevention for, and recovery and rebuilding from such catastrophes, and to better assist in the financial recovery from such catastrophes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2013

Mr. ROSS introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a program to provide reinsurance for State natural catastrophe insurance programs to help the United States better prepare for and protect its citizens against the ravages of natural catastrophes, to encourage and promote mitigation and prevention for, and recovery and rebuilding from such catastrophes, and to better assist in the financial recovery from such catastrophes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Homeowners Insurance Protection Act of 2013”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Congressional findings.
- Sec. 3. National Commission on Catastrophe Preparation and Protection.
- Sec. 4. Program authority.
- Sec. 5. Qualified lines of coverage.
- Sec. 6. Covered perils.
- Sec. 7. Contracts for reinsurance coverage for eligible State programs.
- Sec. 8. Treatment of insured losses and maximum Federal liability.
- Sec. 9. Catastrophe capital reserve funds.
- Sec. 10. Consumer Hurricane, Earthquake, Loss Protection (HELP) Fund.
- Sec. 11. Annual study concerning benefits of reinsurance program.
- Sec. 12. Definitions.
- Sec. 13. Regulations.
- Sec. 14. Termination.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that—

8 (1) the United States needs to take actions to
9 be better prepared for and better protected from ca-
10 tastrophes;

11 (2) the hurricane seasons of 2004 and 2005 are
12 startling reminders of both the human and economic
13 devastation that hurricanes, flooding, and other nat-
14 ural disasters can cause;

15 (3) if a hurricane similar to the deadly 1900
16 Galveston hurricane occurred again it could cause
17 over \$36,000,000,000 in loss;

1 (4) if the 1904 San Francisco earthquake oc-
2 curred again it could cause over \$400,000,000,000
3 in loss;

4 (5) if a Category 5 hurricane were to hit Miami
5 it could cause over \$50,000,000,000 in loss and dev-
6 astate the insurance industry in the United States;

7 (6) if the 1938 “Long Island Express” were to
8 occur again it could cause over \$30,000,000,000 in
9 damage and if a hurricane that strong were to di-
10 rectly hit Manhattan it could cause over
11 \$150,000,000,000 in damage and cause irreparable
12 harm to our Nation’s economy;

13 (7) a more comprehensive and integrated ap-
14 proach to dealing with catastrophes is needed;

15 (8) using history as a guide, natural catas-
16 trophes will inevitably place a tremendous strain on
17 homeowners’ insurance markets in many areas, will
18 raise costs for consumers, and will jeopardize the
19 ability of many consumers to adequately insure their
20 homes and possessions;

21 (9) the lack of sufficient insurance capacity and
22 the inability of private insurers to build enough cap-
23 ital, in a short amount of time, threatens to increase
24 the number of uninsured homeowners, which, in

1 turn, increases the risk of mortgage defaults and the
2 strain on the Nation's banking system;

3 (10) some States have intervened to ensure the
4 continued availability and affordability of home-
5 owners' insurance for all residents;

6 (11) it is appropriate that efforts to improve in-
7 surance availability be designed and implemented at
8 the State level;

9 (12) while State insurance programs may be
10 adequate to cover losses from most natural disasters,
11 a small percentage of events are likely to exceed the
12 financial capacity of these programs and the local
13 insurance markets;

14 (13) making available limited Federal reinsur-
15 ance would improve the effectiveness of State insur-
16 ance programs and private insurance markets and
17 would increase the likelihood that homeowners' in-
18 surance claims will be fully paid in the event of a
19 large natural catastrophe and that routine claims
20 that occur after a mega-catastrophe will also con-
21 tinue to be paid;

22 (14) it is necessary to provide a Federal rein-
23 surance program on a temporary basis that will pro-
24 vide more protection at an overall lower cost and
25 that will promote stability in the homeowners' insur-

1 ance market in the short term and encourage growth
2 of reinsurance capacity by the private and capital
3 markets as soon as practical;

4 (15) it is the proper role of the Federal Govern-
5 ment to prepare for and protect its citizens from ca-
6 tastrophes and to facilitate consumer protection, vic-
7 tim assistance, and recovery, including financial re-
8 covery;

9 (16) any Federal reinsurance program must be
10 founded upon sound actuarial principles and priced
11 in a manner that minimizes the potential impact on
12 the Treasury of the United States, encourages the
13 creation of State funds and maximizes the buying
14 potential of these State funds, encourages and pro-
15 motes prevention and mitigation, recovery and re-
16 building, and consumer education, and emphasizes
17 continuous analysis and improvement; and

18 (17) such a Federal reinsurance program
19 should not remain in existence longer than necessary
20 for the private entities or the capital markets, or
21 both, to provide adequate reinsurance capacity to
22 address the homeowners' insurance market.

1 **SEC. 3. NATIONAL COMMISSION ON CATASTROPHE PREPA-**
2 **RATION AND PROTECTION.**

3 (a) ESTABLISHMENT.—The Secretary of the Treas-
4 ury shall establish a commission to be known as the Na-
5 tional Commission on Catastrophe Preparation and Pro-
6 tection.

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

12 (1) the development and implementation of
13 public education concerning the risks posed by nat-
14 ural catastrophes;

15 (2) the development and implementation of pre-
16 vention, mitigation, recovery, and rebuilding stand-
17 ards that better prepare and protect the United
18 States from catastrophes;

19 (3) the establishment of requirements under
20 section 7(e) to ensure that cost savings resulting
21 from this Act inure to the benefit of consumers; and

22 (4) conducting continuous analysis of the effec-
23 tiveness of this Act and recommending improve-
24 ments to the Congress so that the costs of providing
25 catastrophe protection are decreased and so that the
26 United States is better prepared.

1 (c) MEMBERS.—

2 (1) APPOINTMENT AND QUALIFICATION.—The
3 Commission shall consist of 9 members, as follows:

4 (A) HOMELAND SECURITY MEMBER.—The
5 Secretary of Homeland Security or the Sec-
6 retary's designee.

7 (B) APPOINTED MEMBERS.—Eight mem-
8 bers appointed by the Secretary, who shall con-
9 sist of—

10 (i) one individual who is an actuary;

11 (ii) one individual who is employed in
12 engineering;

13 (iii) one individual representing the
14 scientific community;

15 (iv) one individual representing prop-
16 erty and casualty insurers;

17 (v) one individual representing rein-
18 surers;

19 (vi) one individual who is a member or
20 former member of the National Association
21 of Insurance Commissioners; and

22 (vii) two individuals who are con-
23 sumers.

24 (2) PREVENTION OF CONFLICTS OF INTER-
25 EST.—Members shall have no personal or financial

1 interest at stake in the deliberations of the Commis-
2 sion.

3 (d) TREATMENT OF NON-FEDERAL MEMBERS.—

4 Each member of the Commission who is not otherwise em-
5 ployed by the Federal Government shall be considered a
6 special Government employee for purposes of sections 202
7 and 208 of title 18, United States Code.

8 (e) EXPERTS AND CONSULTANTS.—The Commission
9 may procure temporary and intermittent services from in-
10 dividuals or groups recognized as experts in the fields of
11 meteorology, seismology, vulcanology, geology, structural
12 engineering, wind engineering, and hydrology, and other
13 fields, under section 3109(b) of title 5, United States
14 Code, but at a rate not in excess of the daily equivalent
15 of the annual rate of basic pay payable for level V of the
16 Executive Schedule, for each day during which the indi-
17 vidual procured is performing such services for the Com-
18 mission. The Commission may also procure, and the Con-
19 gress encourages the Commission to procure, experts from
20 universities, research centers, foundations, and other ap-
21 propriate organizations who could study, research, and de-
22 velop methods and mechanisms that could be utilized to
23 strengthen structures to better withstand the perils cov-
24 ered by this Act.

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

11 (g) OBTAINING DATA.—The Commission and the
12 Secretary may solicit loss exposure data and such other
13 information either deems necessary to carry out its re-
14 sponsibilities from governmental agencies and bodies and
15 organizations that act as statistical agents for the insur-
16 ance industry. The Commission and the Secretary shall
17 take such actions as are necessary to ensure that informa-
18 tion that either deems is confidential or proprietary is dis-
19 closed only to authorized individuals working for the Com-
20 mission or the Secretary. No company which refuses to
21 provide information requested by the Commission or the
22 Secretary may participate in the program for reinsurance
23 coverage authorized under this Act, nor may any State
24 insurance or reinsurance program participate if any gov-
25 ernmental agency within that State has refused to provide

1 information requested by the Commission or the Sec-
2 retary.

3 (h) FUNDING.—

4 (1) AUTHORIZATION OF APPROPRIATIONS.—

5 There is authorized to be appropriated—

6 (A) \$10,000,000 for fiscal year 2014 for
7 the initial expenses in establishing the Commis-
8 sion and the initial activities of the Commission
9 that cannot timely be covered by amounts ob-
10 tained pursuant to section 7(b)(6)(B)(iii), as
11 determined by the Secretary;

12 (B) such additional sums as may be nec-
13 essary to carry out subsequent activities of the
14 Commission;

15 (C) \$10,000,000 for fiscal year 2014 for
16 the initial expenses of the Secretary in carrying
17 out the program authorized under section 4;
18 and

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

22 (2) OFFSET.—The Secretary shall provide, to
23 the maximum extent practicable, that an amount
24 equal to any amount appropriated under paragraph
25 (1) is obtained from purchasers of reinsurance cov-

1 erage under this Act and deposited in the Fund es-
2 tablished under section 10. Such amounts shall be
3 obtained by inclusion of a provision for the Sec-
4 retary's and the Commission's expenses incorporated
5 into the pricing of the contracts for such reinsurance
6 coverage, pursuant to section 7(b)(6)(B)(iii).

7 (i) TERMINATION.—The Commission shall terminate
8 upon the effective date of the repeal under section 14(c).

9 **SEC. 4. PROGRAM AUTHORITY.**

10 (a) IN GENERAL.—The Secretary of the Treasury, in
11 consultation with the Secretary of Homeland Security,
12 shall carry out a program under this Act to improve the
13 availability and affordability of homeowners protection
14 coverage by making available for purchase, only by eligible
15 State programs, contracts for reinsurance coverage under
16 section 7.

17 (b) PURPOSE.—The program shall be designed to
18 make reinsurance coverage under this Act available—

19 (1) to improve the availability and affordability
20 of homeowners' insurance for the purpose of facili-
21 tating the pooling, and spreading the risk, of cata-
22 strophic financial losses from natural catastrophes;

23 (2) to improve the solvency and capacity of
24 homeowners' insurance markets;

1 (3) to encourage the development and imple-
2 mentation of mitigation, prevention, recovery, and
3 rebuilding standards; and

4 (4) to recommend methods to continuously im-
5 prove the way the United States reacts and responds
6 to catastrophes, including improvements to the
7 HELP Fund established under section 10.

8 (c) CONTRACT PRINCIPLES.—Under the program
9 under this Act, the Secretary shall offer reinsurance cov-
10 erage through contracts with covered purchasers, which
11 contracts—

12 (1) shall not displace or compete with the pri-
13 vate insurance or reinsurance markets or the capital
14 market;

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

17 (3) shall provide coverage based solely on in-
18 sured losses within the State for the eligible State
19 program purchasing the contract.

20 **SEC. 5. QUALIFIED LINES OF COVERAGE.**

21 Each contract for reinsurance coverage made avail-
22 able under this Act shall provide insurance coverage
23 against residential property losses to homes (including
24 dwellings owned under condominium and cooperative own-

1 ership arrangements) and the contents of apartment
2 buildings.

3 **SEC. 6. COVERED PERILS.**

4 Each contract for reinsurance coverage made avail-
5 able under this Act shall cover losses insured or reinsured
6 by the eligible State program purchasing the contract that
7 are proximately caused by—

8 (1) earthquakes;

9 (2) perils ensuing from earthquakes, including
10 fire and tsunamis;

11 (3) tropical cyclones having maximum sustained
12 winds of at least 74 miles per hour, including hurri-
13 canes and typhoons;

14 (4) tornadoes;

15 (5) volcanic eruptions;

16 (6) catastrophic winter storms; and

17 (7) any other natural catastrophe (not including
18 any flood) insured or reinsured under the eligible
19 State program for which reinsurance coverage under
20 section 7 is provided.

21 The Secretary shall, by regulation, define the natural ca-
22 tastrophe perils under this section.

1 **SEC. 7. CONTRACTS FOR REINSURANCE COVERAGE FOR**
2 **ELIGIBLE STATE PROGRAMS.**

3 (a) **ELIGIBLE STATE PROGRAMS.**—A program shall
4 be eligible to purchase a contract under this section for
5 reinsurance coverage under this Act only if the State enti-
6 ty authorized to make such determinations certifies to the
7 Secretary that the program complies with the following re-
8 quirements:

9 (1) **PROGRAM DESIGN.**—The program shall be a
10 State-operated—

11 (A) insurance program that—

12 (i) offers coverage for homes (which
13 may include dwellings owned under condo-
14 minium and cooperative ownership ar-
15 rangements) and the contents of apart-
16 ments to State residents; and

17 (ii) is authorized by State law; or

18 (B) reinsurance program that is designed
19 to improve private insurance markets that offer
20 coverage for homes (which may include dwell-
21 ings owned under condominium and cooperative
22 ownership arrangements) and the contents of
23 apartments because of a finding by the State
24 insurance commissioner or other State entity
25 authorized to make such a determination that
26 such program is necessary in order to provide

1 for the continued availability of such residential
2 coverage for all residents.

3 (2) OPERATION.—The program shall meet the
4 following requirements:

5 (A) A majority of the members of the gov-
6 erning body of the program shall be public offi-
7 cials.

8 (B) The State shall have a financial inter-
9 est in the program, which shall not include a
10 program authorized by State law or regulation
11 that requires insurers to pool resources to pro-
12 vide property insurance coverage for covered
13 perils.

14 (C) If the State has at any time appro-
15 priated amounts from the State fund for the
16 State program for any purpose other than pay-
17 ments under the program, the State shall have
18 repaid such amounts to the State fund, together
19 with interest on such amounts.

20 (3) TAX STATUS.—The program shall be struc-
21 tured and carried out in a manner so that the pro-
22 gram is exempt from all Federal taxation.

23 (4) COVERAGE.—The program shall cover all
24 perils specified in section 6.

1 (5) EARNINGS.—The program may not provide
2 for, nor shall have ever made, any redistribution of
3 any part of any net profits of the program to any
4 insurer that participates in the program.

5 (6) PREVENTION AND MITIGATION.—The pro-
6 gram shall include prevention and mitigation provi-
7 sions that require that not less than \$10,000,000
8 and not more than 35 percent of the net investment
9 income of the State insurance or reinsurance pro-
10 gram be used for programs to mitigate losses from
11 natural catastrophes for which the State insurance
12 or reinsurance program was established. For pur-
13 poses of this paragraph, prevention and mitigation
14 shall include methods to reduce losses of life and
15 property, including appropriate measures to ade-
16 quately reflect—

17 (A) encouragement of awareness about the
18 risk factors and what can be done to eliminate
19 or reduce them;

20 (B) location of the risk, by giving careful
21 consideration of the natural risks for the loca-
22 tion of the property before allowing building
23 and considerations if structures are allowed;
24 and

1 (C) construction relative to the risk and
2 hazards, which act upon—

3 (i) State mandated building codes ap-
4 propriate for the risk;

5 (ii) adequate enforcement of the risk-
6 appropriate building codes;

7 (iii) building materials that prevent or
8 significantly lessen potential damage from
9 the natural catastrophes;

10 (iv) building methods that prevent or
11 significantly lessen potential damage from
12 the natural catastrophes; and

13 (v) a focus on prevention and mitiga-
14 tion for any substantially damaged struc-
15 ture, with an emphasis on how structures
16 can be retrofitted so as to make them
17 building code compliant.

18 (7) REQUIREMENTS REGARDING COVERAGE.—

19 (A) IN GENERAL.—The program—

20 (i) may not, except for charges or as-
21 sessments related to post-event financing
22 or bonding, involve cross-subsidization be-
23 tween any separate property and casualty
24 lines covered under the program unless the
25 elimination of such activity in an existing

1 program would negatively impact the eligi-
2 bility of the program to purchase a con-
3 tract for reinsurance coverage under this
4 Act pursuant to paragraph (3);

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

14 (iii) shall provide that, for any insur-
15 ance coverage for homes (which may in-
16 clude dwellings owned under condominium
17 and cooperative ownership arrangements)
18 and the contents of apartments that is
19 made available under the State insurance
20 program and for any reinsurance coverage
21 for such insurance coverage made available
22 under the State reinsurance program, the
23 premium rates charged shall be amounts
24 that, at a minimum, are sufficient to cover
25 the full actuarial costs of such coverage,

1 based on consideration of the risks involved
2 and accepted actuarial and rate making
3 principles, anticipated administrative ex-
4 penses, and loss and loss-adjustment ex-
5 penses.

6 (B) APPLICABILITY.—This paragraph shall
7 apply after the expiration of the 2-year period
8 beginning on the date of the enactment of this
9 Act.

10 (8) PROHIBITION OF COMPETITION WITH PRI-
11 VATE MARKET.—Any insurance or reinsurance cov-
12 erage, as applicable, made available through the
13 State program shall not supplant coverage that is
14 otherwise reasonably available and affordable in the
15 private market.

16 (9) OTHER QUALIFICATIONS.—

17 (A) IN GENERAL.—The State program
18 shall (for the year for which the coverage is in
19 effect) comply with regulations that shall be
20 issued under this paragraph by the Secretary,
21 in consultation with the Commission. The regu-
22 lations shall establish criteria for State pro-
23 grams to qualify to purchase reinsurance under
24 this section, which are in addition to the re-

1 quirements under the other paragraphs of this
2 subsection.

3 (B) CONTENTS.—The regulations issued
4 under this paragraph shall include requirements
5 that—

6 (i) the State program shall have pub-
7 lic members on its board of directors or
8 have an advisory board with public mem-
9 bers;

10 (ii) the State program provide ade-
11 quate insurance or reinsurance protection,
12 as applicable, for the perils covered, which
13 shall include a range of deductibles and
14 premium costs that reflect the applicable
15 risks to eligible properties;

16 (iii) insurance or reinsurance cov-
17 erage, as applicable, provided by the State
18 program is made available on a non-
19 discriminatory basis to all qualifying resi-
20 dents;

21 (iv) any new construction, substantial
22 rehabilitation, and renovation insured or
23 reinsured by the program complies with
24 applicable State or local government build-
25 ing, fire, and safety codes;

1 (v) the State, or appropriate local gov-
2 ernments within the State, have in effect
3 and enforce nationally recognized model
4 building, fire, and safety codes and con-
5 sensus-based standards that offer risk re-
6 sponsive resistance that is substantially
7 equivalent or greater than the resistance to
8 earthquakes or high winds;

9 (vi) the State has taken actions to es-
10 tablish an insurance rate structure that
11 takes into account measures to mitigate in-
12 surance losses;

13 (vii) there are in effect, in such State,
14 laws or regulations sufficient to prohibit
15 price gouging, during the term of reinsur-
16 ance coverage under this Act for the State
17 program in any disaster area located with-
18 in the State; and

19 (viii) the State program complies with
20 such other requirements that the Secretary
21 considers necessary to carry out the pur-
22 poses of this Act.

23 (b) TERMS OF CONTRACTS.—Each contract under
24 this section for reinsurance coverage under this Act shall
25 be subject to the following terms and conditions:

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

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

7 (3) RETAINED LOSSES REQUIREMENT.—For
8 each event of a covered peril, the contract shall
9 make a payment for the event only if the total
10 amount of insurance claims for losses, which are
11 covered by qualified lines, occur to properties located
12 within the State covered by the contract, and that
13 result from insured losses (as defined in section 12)
14 for the State program, exceeds the amount of re-
15 tained losses provided under the contract (pursuant
16 to section 8(a)) purchased by the eligible State pro-
17 gram.

18 (4) MULTIPLE EVENTS.—The contract shall
19 cover any eligible losses from one or more covered
20 events that may occur during the term of the con-
21 tract and shall provide that if multiple events occur,
22 the retained losses requirement under paragraph (3)
23 shall apply on a calendar year basis, in the aggre-
24 gate and not separately to each individual event.

1 (5) TIMING OF ELIGIBLE LOSSES.—Eligible
2 losses under the contract shall include only insur-
3 ance claims for property covered by qualified lines
4 that are reported to the eligible State program with-
5 in the 3-year period beginning upon the event or
6 events for which payment under the contract is pro-
7 vided.

8 (6) PRICING.—

9 (A) DETERMINATION.—The price of rein-
10 surance coverage under the contract shall be an
11 amount established by the Secretary as follows:

12 (i) RECOMMENDATIONS.—The Sec-
13 retary shall take into consideration the rec-
14 ommendations of the Commission in estab-
15 lishing the price, but the price may not be
16 less than the amount recommended by the
17 Commission.

18 (ii) FAIRNESS TO TAXPAYERS.—The
19 price shall be established at a level that is
20 designed to reflect the risks and costs
21 being borne under each reinsurance con-
22 tract issued under this Act and that takes
23 into consideration empirical models of nat-
24 ural disasters and the capacity of private

1 markets to absorb insured losses from nat-
2 ural disasters.

3 (iii) SELF-SUFFICIENCY.—The rates
4 for reinsurance coverage shall be estab-
5 lished at a level that annually produces ex-
6 pected premiums that shall be sufficient to
7 pay the expected annualized cost of all
8 claims, loss adjustment expenses, and all
9 administrative costs of reinsurance cov-
10 erage offered under this section.

11 (B) COMPONENTS.—The price shall consist
12 of the following components:

13 (i) RISK-BASED PRICE.—A risk-based
14 price, which shall reflect the anticipated
15 annualized payout of the contract accord-
16 ing to the actuarial analysis and rec-
17 ommendations of the Commission.

18 (ii) RISK LOAD.—A risk load in an
19 amount that is not less than the risk-based
20 price under clause (i). In establishing risk
21 loads under this clause, the Secretary shall
22 take into consideration comparable private
23 risk loads.

24 (iii) ADMINISTRATIVE COSTS.—A sum
25 sufficient to provide for the operation of

1 the Commission and the administrative ex-
2 penses incurred by the Secretary in car-
3 rying out this Act.

4 (7) INFORMATION.—The contract shall contain
5 a condition providing that the Commission may re-
6 quire the State program that is covered under the
7 contract to submit to the Commission all informa-
8 tion on the State program relevant to the duties of
9 the Commission, as determined by the Secretary.

10 (8) ADDITIONAL CONTRACT OPTION.—The con-
11 tract shall provide that the purchaser of the contract
12 may, during the term of such original contract, pur-
13 chase additional contracts from among those offered
14 by the Secretary at the beginning of the term, sub-
15 ject to the limitations under section 8, at the prices
16 at which such contracts were offered at the begin-
17 ning of the term, prorated based upon the remaining
18 term as determined by the Secretary. Such addi-
19 tional contracts shall provide coverage beginning on
20 a date 15 days after the date of purchase but shall
21 not provide coverage for losses for an event that has
22 already occurred.

23 (9) OTHERS.—The contract shall contain such
24 other terms as the Secretary considers necessary to

1 carry out this Act and to ensure the long-term fi-
2 nancial integrity of the program under this Act.

3 (c) PRIVATE SECTOR RIGHT TO PARTICIPATE.—

4 (1) ESTABLISHMENT OF COMPETITIVE PROCE-
5 DURE.—The Secretary shall establish, by regulation,
6 a competitive procedure under this subsection that
7 provides qualified entities an opportunity, on a basis
8 consistent with the contract cycle established under
9 this Act by the Secretary, to offer to provide, in lieu
10 of reinsurance coverage under this section, reinsur-
11 ance coverage that is substantially similar to cov-
12 erage otherwise made available under this section.

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

15 (A) the Secretary shall establish criteria
16 for private insurers, reinsurers, and capital
17 market companies, and consortia of such enti-
18 ties to be treated as qualified entities for pur-
19 poses of this subsection, which criteria shall re-
20 quire such an entity to have at all times capital
21 sufficient to satisfy the terms of the reinsurance
22 contracts and shall include such other industry
23 and credit rating standards as the Secretary
24 considers appropriate;

1 (B) not less than 30 days before the begin-
2 ning of each contract cycle during which any re-
3 insurance coverage under this section is to be
4 made available, the Secretary may request pro-
5 posals and shall publish in the Federal Register
6 the rates and terms for contracts for reinsur-
7 ance coverage under this section that are to be
8 made available during such contract cycle;

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

17 (D) the Secretary shall provide any quali-
18 fied entity submitting an expression of interest
19 during the period referred to in subparagraph
20 (C) a period of not less than 20 days (which
21 shall terminate before the beginning of the con-
22 tract cycle) to submit to the Secretary an offer
23 to provide, in lieu of the reinsurance coverage
24 otherwise to be made available under this sec-

tion, coverage that is substantially similar to such coverage;

(E) if the Secretary determines that an offer submitted during the period referred to in subparagraph (D) 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

(F) if the Secretary accepts an offer pursuant to subparagraph (E) 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.

1 (d) PARTICIPATION BY MULTI-STATE CATASTROPHE
2 FUND PROGRAMS.—Nothing in this Act shall prohibit the
3 creation of multi-State catastrophe insurance or reinsur-
4 ance programs, or the participation by such programs in
5 the program established pursuant to section 4. The Sec-
6 retary shall, by regulation, apply the provisions of this Act
7 to multi-State catastrophe insurance and reinsurance pro-
8 grams.

9 (e) REQUIREMENT FOR INSURERS TO PASS
10 THROUGH SAVINGS TO CONSUMERS.—Notwithstanding
11 any other provision of this Act, a State program shall not
12 be eligible to purchase a contract for reinsurance coverage
13 made available under this Act unless such State has in
14 effect such laws, regulations, or other requirements, as the
15 Secretary shall by regulation require, that—

16 (1) to the extent that reinsurance coverage
17 made available under the program under this Act re-
18 sults in any cost savings in providing insurance cov-
19 erage for risks in such State, such cost savings be
20 reflected in premium rates charged to consumers for
21 such coverage; and

22 (2) the State take such actions as the Secretary
23 considers appropriate to ensure that the requirement
24 under paragraph (1) is carried out and enforced.

1 **SEC. 8. TREATMENT OF INSURED LOSSES AND MAXIMUM**
2 **FEDERAL LIABILITY.**

3 (a) AVAILABLE LEVELS OF RETAINED LOSSES.—In
4 making reinsurance coverage available under this Act, the
5 Secretary shall make available for purchase contracts for
6 such coverage that require the sustainment of retained
7 losses from covered perils (as required under section
8 7(b)(3) for payment of eligible losses) in various amounts,
9 as the Secretary, in consultation with the Commission, de-
10 termines appropriate and subject to the requirements
11 under subsection (b).

12 (b) MINIMUM LEVEL OF RETAINED LOSSES.—

13 (1) AMOUNT.—Subject to paragraph (2) and
14 notwithstanding any other provision of this Act, a
15 contract for reinsurance coverage under section 7 for
16 an eligible State program that offers insurance or
17 reinsurance coverage described in subparagraph (A)
18 or (B), respectively, of section 7(a)(1) may not be
19 made available or sold unless the contract requires
20 that the State program sustain an amount of re-
21 tained losses from covered perils in the following
22 amount:

23 (A) IN GENERAL.—The State program
24 shall sustain an amount of retained losses of
25 not less than the greater of—

1 (i) the claims-paying capacity of the
2 eligible State program, as determined by
3 the Secretary; and

4 (ii) an amount, determined by the
5 Secretary in consultation with the Commis-
6 sion, that is the amount equal to the eligi-
7 ble losses projected to be incurred once
8 every 200 years on an annual basis from
9 covered perils.

10 (B) TRANSITION RULE FOR NEW PRO-
11 GRAMS.—

12 (i) 200-YEAR EVENT.—The Secretary
13 may provide that, in the case of an eligible
14 State program that, after the date of the
15 enactment of this Act, commences offering
16 insurance or reinsurance coverage, during
17 the 7-year period beginning on the date
18 that reinsurance coverage under section 7
19 is first made available, the minimum level
20 of retained losses applicable under this
21 paragraph shall be the amount determined
22 for the State under subparagraph (A)(i),
23 except that such minimum level shall be
24 adjusted annually as provided in clause (ii)
25 of this subparagraph.

1 (ii) ANNUAL ADJUSTMENT.—Each an-
2 nual adjustment under this clause shall in-
3 crease the minimum level of retained losses
4 applicable under this subparagraph to an
5 eligible State program described in clause
6 (i) in a manner such that—

7 (I) during the course of such 7-
8 year period, the applicable minimum
9 level of retained losses approaches the
10 minimum level that, under subpara-
11 graph (A)(ii), will apply to the eligible
12 State program upon the expiration of
13 such period; and

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

17 (C) REDUCTION BECAUSE OF REDUCED
18 CLAIMS-PAYING CAPACITY.—

19 (i) AUTHORITY.—Notwithstanding
20 subparagraphs (A), (B), and (C) or the
21 terms contained in a contract for reinsur-
22 ance pursuant to such subparagraphs, if
23 the Secretary determines that the claims-
24 paying capacity of an eligible State pro-
25 gram has been reduced because of payment

1 for losses due to an event, the Secretary
2 may reduce the minimum level of retained
3 losses.

4 (ii) TERM OF REDUCTION.—The Sec-
5 retary may extend the 5-year period for
6 not more than 5 additional 1-year periods
7 if the Secretary determines that losses in-
8 curred by the State program as a result of
9 covered perils create excessive hardship on
10 the State program. The Secretary shall
11 consult with the appropriate officials of the
12 State program regarding the required
13 schedule and any potential 1-year exten-
14 sions.

15 (D) CLAIMS-PAYING CAPACITY.—For pur-
16 poses of this paragraph, the claims-paying ca-
17 pacity of a State-operated insurance or reinsur-
18 ance program under section 7(a)(1) shall be de-
19 termined by the Secretary, in consultation with
20 the Commission, taking into consideration the
21 claims-paying capacity as determined by the
22 State program, retained losses to private insur-
23 ers in the State in an amount assigned by the
24 State insurance commissioner, the cash surplus
25 of the program, and the lines of credit, reinsur-

1 ance, and other financing mechanisms of the
2 program established by law.

3 (2) INITIAL ADJUSTMENT BASED ON PRIVATE
4 MARKET.—The Secretary may, before making con-
5 tracts for reinsurance coverage under this Act ini-
6 tially available under section 7, raise the minimum
7 level of retained losses from the amount required
8 under paragraph (1) for an eligible State program to
9 ensure, as determined by the Secretary, that such
10 contracts comply with the principle under section
11 4(c)(1).

12 (c) 90 PERCENT COVERAGE OF INSURED LOSSES IN
13 EXCESS OF RETAINED LOSSES.—Each contract for rein-
14 surance coverage under this Act for a covered purchaser
15 shall provide that the amount paid out under the contract
16 shall, subject to subsection (d), be equal to 90 percent of
17 the amount of insured losses of the eligible State program
18 of the purchaser in excess of the amount of retained losses
19 that the contract requires, pursuant to subsection (b), to
20 be incurred by such program.

21 (d) MAXIMUM FEDERAL LIABILITY.—

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

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

3 (A) ESTIMATE OF AGGREGATE LIABIL-
4 ITY.—The aggregate liability for payment of
5 claims under all such contracts in any single
6 year is unlikely to exceed \$200,000,000,000 (as
7 such amount is adjusted under paragraph (2)).

8 (B) ELIGIBLE LOSS COVERAGE SOLD.—El-
9 igible losses covered by all contracts sold within
10 a State during a 12-month period do not exceed
11 the difference between the following amounts
12 (each of which shall be determined by the Sec-
13 retary in consultation with the Commission):

14 (i) The amount equal to the eligible
15 loss projected to be incurred once every
16 500 years from a single event in the State.

17 (ii) The amount equal to the eligible
18 loss projected to be incurred once every
19 200 years from a single event in the State.

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

1 **SEC. 9. CATASTROPHE CAPITAL RESERVE FUNDS.**

2 (a) ESTABLISHMENT.—Any insurer who participates
3 in an eligible State program under section 7(a) may estab-
4 lish a Catastrophe Capital Reserve Fund (in this section
5 referred to as a “reserve fund”) in which it may hold
6 funds in a fiduciary capacity on behalf of the Secretary.

7 (b) FUNDING.—An insurer may fund a reserve fund
8 by making an election, in advance, to treat some or all
9 of the premiums received for such coverage as charges im-
10 posed by the Secretary for participation in, and operation
11 of, the program for reinsurance coverage under this Act.
12 Any such premiums for which such an election has been
13 made shall be maintained in a segregated account in a
14 fiduciary capacity on behalf of the Secretary. Such funds
15 may be invested in any otherwise legally permissible man-
16 ner but all interest, dividends, and capital accumulations
17 also shall be retained in such segregated account on behalf
18 of the Secretary.

19 (c) USE.—Amounts in a reserve fund established pur-
20 suant to this section shall be collected and used by the
21 Secretary to offset, in whole or in part, the cost to the
22 Secretary of claims paid under reinsurance coverage pro-
23 vided under the program, except that, in the case only of
24 a single event that results in an amount of eligible losses
25 to insurers that is equal to or greater than the amount
26 of such losses projected to be incurred from a single event

1 having an extent of such losses such that the event has
2 a 1.0 percent chance of occurring in any year, an insurer
3 may first use the funds in a reserve fund of the insurer
4 to satisfy any one or more of the following:

5 (1) The retained losses for the insurer required
6 under section 8(b).

7 (2) The portion of the insurer's losses that ex-
8 ceed the required retained losses but are not com-
9 pensated under a reinsurance contract made avail-
10 able under the Program pursuant to section 8(c).

11 (3) The insurer's obligations to pay for insured
12 losses if any conditions precedent to payment under
13 a contract for reinsurance made available under the
14 Program are not met.

15 (4) Any risk-sharing obligations that the in-
16 surer may have entered into.

17 (d) TERMINATION.—

18 (1) TERMINATION OF PROGRAM.—Upon termi-
19 nation under section 14 of the program under this
20 Act, and subject to the continuing authority of the
21 Secretary to adjust claims in satisfaction of con-
22 tracts for reinsurance in force under the Program,
23 10 percent of each insurer's reserve funds shall be
24 remitted to the Secretary and the remainder shall be
25 remitted to the insurer. The Secretary shall deter-

1 mine the manner in which the remittance of such in-
 2 come to the insurer shall be made.

3 (2) ELIMINATION OF COVERAGE OF INSURED
 4 LOSSES IN EXCESS OF RETAINED LOSSES.—If at any
 5 time the Program remains in effect but contracts for
 6 reinsurance under the Program do not provide any
 7 payment for insured losses in excess of retained
 8 losses, the reserve funds shall be retained and used
 9 for the purposes set forth in subsection (c) of this
 10 section. At such time as an insurer’s liability for in-
 11 sured losses under the Program terminates, as a
 12 consequence of the insurer’s termination of its busi-
 13 ness or otherwise, the insurer shall remit any
 14 amounts remaining in its reserve funds to the Sec-
 15 retary.

16 **SEC. 10. CONSUMER HURRICANE, EARTHQUAKE, LOSS PRO-**
 17 **TECTION (HELP) FUND.**

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

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

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

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

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

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

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

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

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

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

18 (4) TERMINATION.—Upon termination under
19 section 14, as provided in such section.

20 (d) BORROWING.—

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

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

3 (2) PUBLIC DEBT TRANSACTION.—For the pur-
4 pose of purchasing any such obligations, the Sec-
5 retary may use as a public debt transaction the pro-
6 ceeds from the sale of any securities issued under
7 chapter 31 of title 31, United States Code, and the
8 purposes for which securities are issued under such
9 chapter are hereby extended to include any purchase
10 by the Secretary of such obligations under this sub-
11 section.

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

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

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

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

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

8 (f) PROHIBITION OF FEDERAL FUNDS.—Except for
9 amounts made available pursuant to subsection (d) and
10 section 3(h), no further Federal funds shall be authorized
11 or appropriated for the Fund or for carrying out the rein-
12 surance program under this Act.

13 **SEC. 11. ANNUAL STUDY CONCERNING BENEFITS OF REIN-**
14 **SURANCE PROGRAM.**

15 (a) IN GENERAL.—The Secretary shall, on an annual
16 basis, conduct a study and submit to the Congress a report
17 that—

18 (1) analyzes the cost and availability of home-
19 owners' insurance for losses resulting from cata-
20 strophic natural disasters covered by the reinsurance
21 program under this Act;

22 (2) describes the efforts of the participating
23 States in—

1 (A) enacting preparedness, prevention,
2 mitigation, recovery, and rebuilding standards;
3 and

4 (B) educating the public on the risks asso-
5 ciated with natural catastrophe; and

6 (3) makes recommendations regarding ways to
7 improve the program under this Act and its adminis-
8 tration.

9 (b) CONTENTS.—Each annual study under this sec-
10 tion shall also determine and identify, on an aggregate
11 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 natural dis-
15 asters;

16 (2) for each State or region, the percentage of
17 homeowners who have such coverage, the catas-
18 trophes covered, and the average cost of such cov-
19 erage; and

20 (3) for each State or region, the effects this Act
21 is having on the availability and affordability of such
22 insurance.

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

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

5 **SEC. 12. DEFINITIONS.**

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

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

12 (2) COVERED PERILS.—The term “covered per-
 13 ils” means the natural disaster perils under section
 14 6.

15 (3) COVERED PURCHASER.—The term “covered
 16 purchaser” means an eligible State-operated insur-
 17 ance or reinsurance program that purchases reinsur-
 18 ance coverage made available under a contract under
 19 section 7.

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

22 (A) a covered peril specified in section 6
 23 has occurred; and

1 (B) a declaration that a major disaster ex-
2 ists, as a result of the occurrence of such
3 peril—

4 (i) has been made by the President of
5 the United States; and

6 (ii) is in effect.

7 (5) ELIGIBLE LOSSES.—The term “eligible
8 losses” means, with respect to a contract for rein-
9 surance coverage made available under this Act for
10 a covered purchaser, the insured losses of the cov-
11 ered purchaser that exceed the amount of retained
12 losses that the contract requires, pursuant to section
13 8(b), to be incurred by the eligible State program of
14 such purchaser, as defined by the Secretary after
15 consultation with the Commission.

16 (6) ELIGIBLE STATE PROGRAM.—The term “eli-
17 gible State program” means a State program that,
18 pursuant to section 7(a), is eligible to purchase rein-
19 surance coverage made available through contracts
20 under section 7, or a multi-State program that is eli-
21 gible to purchase such coverage pursuant to section
22 7(c).

23 (7) INSURED LOSS.—The term “insured loss”
24 means, with respect to contract for reinsurance cov-
25 erage made available under this Act for a covered

1 purchaser, any loss resulting from a covered peril
2 that is covered by insurance or reinsurance made
3 available under the eligible State program of the
4 covered purchaser.

5 (8) PRICE GOUGING.—The term “price
6 gouging” means the providing of any consumer good
7 or service by a supplier related to repair or restora-
8 tion of property damaged from a catastrophe for a
9 price that the supplier knows or has reason to know
10 is greater, by at least the percentage set forth in a
11 State law or regulation prohibiting such act (not-
12 withstanding any real cost increase due to any at-
13 tendant business risk and other reasonable expenses
14 that result from the major catastrophe involved),
15 than the price charged by the supplier for such con-
16 sumer good or service immediately before the dis-
17 aster.

18 (9) QUALIFIED LINES.—The term “qualified
19 lines” means lines of insurance coverage for which
20 losses are covered under section 5 by reinsurance
21 coverage under this Act.

22 (10) REINSURANCE COVERAGE.—The term “re-
23 insurance coverage under this Act” means coverage
24 under contracts made available under section 7.

1 (11) SECRETARY.—The term “Secretary”
2 means the Secretary of the Treasury.

3 (12) STATE.—The term “State” means the
4 States of the United States, the District of Colum-
5 bia, the Commonwealth of Puerto Rico, the Com-
6 monwealth of the Northern Mariana Islands, Guam,
7 the Virgin Islands, American Samoa, and any other
8 territory or possession of the United States.

9 **SEC. 13. REGULATIONS.**

10 The Secretary, in consultation with the Secretary of
11 the Department of Homeland Security, shall issue any
12 regulations necessary to carry out the program for rein-
13 surance coverage under this Act.

14 **SEC. 14. TERMINATION.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), the Secretary may not provide any reinsurance cov-
17 erage under this Act covering any period after the expira-
18 tion of the 20-year period beginning on the date of the
19 enactment of this Act.

20 (b) EXTENSION.—If upon the expiration of the period
21 under subsection (a) the Secretary, in consultation with
22 the Commission, determines that continuation of the pro-
23 gram for reinsurance coverage under this Act is necessary
24 or appropriate to carry out the purpose of the program
25 under section 4(b) because of insufficient growth of capac-

1 ity in the private homeowners' insurance market, the Sec-
2 retary shall continue to provide reinsurance coverage
3 under this Act until the expiration of the 5-year period
4 beginning upon the expiration of the period under sub-
5 section (a).

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

10 (d) DEFICIT REDUCTION.—The Secretary shall cover
11 into the General Fund of the Treasury any amounts re-
12 maining in the Fund under section 9 upon the repeal of
13 this Act under subsection (c).

○