

111TH CONGRESS
1ST SESSION

H. R. 2555

To ensure the availability and affordability of homeowners' insurance coverage
for catastrophic events.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. KLEIN of Florida (for himself, Mr. FRANK of Massachusetts, Mr. GRAYSON, Ms. KOSMAS, Mr. LARSON of Connecticut, Mr. CLYBURN, Mr. CROWLEY, Mrs. TAUSCHER, Mr. HARE, Mr. MEEK of Florida, Mr. WELCH, Ms. CASTOR of Florida, Mr. WEXLER, Mr. DELAHUNT, Mr. KENNEDY, Ms. GINNY BROWN-WAITE of Florida, Mr. ABERCROMBIE, Mr. POSEY, Ms. ROS-LEHTINEN, Mr. BUCHANAN, Mr. GRIFFITH, Mr. MELANCON, Mr. SCHIFF, Mr. WALZ, Ms. BERKLEY, Ms. JACKSON-LEE of Texas, Mr. HASTINGS of Florida, Mr. BRALEY of Iowa, Mr. BOYD, Mr. RYAN of Ohio, Ms. WASSERMAN SCHULTZ, Mr. BERMAN, Mr. CRENSHAW, Mr. INSLEE, Mr. KAGEN, Mr. MCNERNEY, Mr. PERLMUTTER, Ms. CORRINE BROWN of Florida, Ms. HARMAN, Mr. LINCOLN DIAZ-BALART of Florida, Mr. ACKERMAN, Mr. YARMUTH, Mr. ROONEY, and Mr. DONNELLY of Indiana) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To ensure the availability and affordability of homeowners'
insurance coverage for catastrophic events.

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’ Defense Act of 2009”.

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. Findings and purposes.

TITLE I—NATIONAL CATASTROPHE RISK CONSORTIUM

Sec. 101. Establishment; status; principal office; membership.

Sec. 102. Functions.

Sec. 103. Powers.

Sec. 104. Nonprofit entity; conflicts of interest; audits.

Sec. 105. Management.

Sec. 106. Staff; experts and consultants.

Sec. 107. Federal liability.

Sec. 108. Authorization of appropriations.

TITLE II—CATASTROPHE OBLIGATION GUARANTEES

Sec. 201. Purposes.

Sec. 202. Establishment of debt guarantee program.

Sec. 203. Effect of guarantee.

Sec. 204. Full faith and credit.

Sec. 205. Fees for guarantees; amount; collection.

Sec. 206. Payment of losses.

Sec. 207. Regulations.

TITLE III—REINSURANCE COVERAGE FOR ELIGIBLE STATE
PROGRAMS

Sec. 301. Program authority.

Sec. 302. Contract principles.

Sec. 303. Terms of reinsurance contracts.

Sec. 304. Maximum Federal liability.

Sec. 305. Federal Natural Catastrophe Reinsurance Fund.

Sec. 306. Regulations.

TITLE IV—MITIGATION GRANT PROGRAM

Sec. 401. Mitigation grant program.

TITLE V—GENERAL PROVISIONS

Sec. 501. Eligible State programs.

Sec. 502. Study and conditional coverage of commercial residential lines of in-
surance.

Sec. 503. Definitions.

Sec. 504. Regulations.

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

2 (a) FINDINGS.—The Congress finds that—

3 (1) the United States has a history of cata-
4 strophic natural disasters, including hurricanes, tor-
5 nadoes, flood, fire, earthquakes, and volcanic erup-
6 tions;

7 (2) although catastrophic natural disasters
8 occur infrequently, they will continue to occur and
9 are predictable;

10 (3) such disasters generate large economic
11 losses and a major component of those losses comes
12 from damage and destruction to homes;

13 (4) for the majority of Americans, their invest-
14 ment in their home represents their single biggest
15 asset and the protection of that investment is para-
16 mount to economic and social stability;

17 (5) the United States needs to take and support
18 State actions to be better prepared for and better
19 protected from catastrophes;

20 (6) as the risk of catastrophic losses grows, so
21 do the risks that any premiums collected by private
22 insurers for extending coverage will be insufficient to
23 cover future catastrophes, and private insurers, in
24 an effort to protect their shareholders and policy-
25 holders (in the case of mutually owned companies),
26 have thus significantly raised premiums and cur-

1 tailed insurance coverage in States exposed to major
2 catastrophes;

3 (7) such effects on the insurance industry have
4 been harmful to economic activity in States exposed
5 to major catastrophes and have placed significant
6 burdens on residents of such States;

7 (8) Hurricanes Katrina, Rita, and Wilma
8 struck the United States in 2005, causing over
9 \$200,000,000,000 in total economic losses, and in-
10 sured losses to homeowners in excess of
11 \$50,000,000,000;

12 (9) the Federal Government has provided and
13 will continue to provide resources to pay for losses
14 from future catastrophes;

15 (10) when Federal assistance is provided to the
16 States, accountability for Federal funds disbursed is
17 paramount;

18 (11) the Government Accountability Office or
19 other appropriate agencies must have the means in
20 place to confirm that Federal funds for catastrophe
21 relief have reached the appropriate victims and have
22 contributed to the recovery effort as efficiently as
23 possible so that taxpayer funds are not misspent and
24 citizens are enabled to rebuild and resume produc-
25 tive activities as quickly as possible;

1 (12) States that are recipients of Federal funds
2 must be responsible to account for and provide an
3 efficient means for distribution of funds to home-
4 owners to enable the rapid rebuilding of local econo-
5 mies after a catastrophic event without unduly bur-
6 dening taxpayers who live in areas seldom affected
7 by natural disasters;

8 (13) State insurance and reinsurance programs
9 can provide a mechanism for States to exercise that
10 responsibility if they appropriately underwrite and
11 price risk, and if they pay claims quickly and within
12 established contractual terms;

13 (14) making available Federal guarantees to en-
14 hance the capability of eligible State programs to
15 issue debt will minimize the exposure of State and
16 Federal taxpayers who otherwise may bear the con-
17 sequences of underfunded programs or under-in-
18 sured communities following catastrophic events, es-
19 pecially during today's historic market turmoil; and

20 (15) it is the proper role of the Federal Govern-
21 ment to prepare for and protect its citizens from ca-
22 strophes and to facilitate consumer protection, vic-
23 tim assistance, and recovery, including financial re-
24 covery.

1 (b) PURPOSES.—The purposes of this Act are to es-
2 tablish a program to provide Federal support for State-
3 sponsored insurance programs to help homeowners pre-
4 pare for and recover from the damages caused by natural
5 catastrophes, to encourage mitigation and prevention for
6 such catastrophes, to promote the use of private market
7 capital as a means to insure against such catastrophes,
8 to expedite the payment of claims and better assist in the
9 financial recovery from such catastrophes.

10 **TITLE I—NATIONAL CATAS-**
11 **TROPHE RISK CONSORTIUM**

12 **SEC. 101. ESTABLISHMENT; STATUS; PRINCIPAL OFFICE;**
13 **MEMBERSHIP.**

14 (a) ESTABLISHMENT.—There is established an entity
15 to be known as the “National Catastrophe Risk Consor-
16 tium” (in this title referred to as the “Consortium”).

17 (b) STATUS.—The Consortium is not a department,
18 agency, or instrumentality of the United States Govern-
19 ment.

20 (c) PRINCIPAL OFFICE.—The principal office and
21 place of business of the Consortium shall be such location
22 within the United States determined by the Board of Di-
23 rectors to be the most advantageous for carrying out the
24 purpose and functions of the Consortium.

1 (d) MEMBERSHIP.—Any State that has established a
2 reinsurance fund or has authorized the operation of a
3 State residual insurance market entity, or State-sponsored
4 provider of natural catastrophe insurance, shall be eligible
5 to participate in the Consortium.

6 **SEC. 102. FUNCTIONS.**

7 The Consortium shall—

8 (1) work with all States, particularly those par-
9 ticipating in the Consortium, to gather and maintain
10 an inventory of catastrophe risk obligations held by
11 State reinsurance funds, State residual insurance
12 market entities, and State-sponsored providers of
13 natural catastrophe insurance;

14 (2) at the discretion of the affected members
15 and on a conduit basis, issue securities and other fi-
16 nancial instruments linked to the catastrophe risks
17 insured or reinsured through members of the Con-
18 sortium in the capital markets;

19 (3) coordinate reinsurance contracts between
20 participating, qualified reinsurance funds and pri-
21 vate parties;

22 (4) act as a centralized repository of State risk
23 information that can be accessed by private-market
24 participants seeking to participate in the trans-

1 actions described in paragraphs (2) and (3) of this
2 section;

3 (5) establish a catastrophe risk database to per-
4 form research and analysis that encourages stand-
5 ardization of the risk-linked securities market;

6 (6) perform any other functions, other than as-
7 suming risk or incurring debt, that are deemed nec-
8 essary to aid in the transfer of catastrophe risk from
9 participating States to private parties; and

10 (7) submit annual reports to Congress describ-
11 ing the activities of the Consortium for the pre-
12 ceding year, and the first such annual report shall
13 include an assessment of the costs to States and re-
14 gions associated with catastrophe risk and an anal-
15 ysis of the costs and benefits, for States not partici-
16 pating in the Consortium, of such nonparticipation.

17 **SEC. 103. POWERS.**

18 The Consortium—

19 (1) may make and perform such contracts and
20 other agreements with any individual or other pri-
21 vate or public entity however designated and wher-
22 ever situated, as may be necessary for carrying out
23 the functions of the Consortium; and

1 (2) shall have such other powers, other than the
2 power to assume risk or incur debt, as may be nec-
3 essary and incident to carrying out this Act.

4 **SEC. 104. NONPROFIT ENTITY; CONFLICTS OF INTEREST;**
5 **AUDITS.**

6 (a) NONPROFIT ENTITY.—The Consortium shall be
7 a nonprofit entity and no part of the net earnings of the
8 Consortium shall inure to the benefit of any member,
9 founder, contributor, or individual.

10 (b) CONFLICTS OF INTEREST.—No director, officer,
11 or employee of the Consortium shall in any manner, di-
12 rectly or indirectly, participate in the deliberation upon or
13 the determination of any question affecting his or her per-
14 sonal interests or the interests of any Consortium, part-
15 nership, or organization in which he or she is directly or
16 indirectly interested.

17 (c) AUDITS.—

18 (1) ANNUAL AUDIT.—The financial statements
19 of the Consortium shall be audited annually in ac-
20 cordance with generally accepted auditing standards
21 by independent certified public accountants.

22 (2) REPORTS.—The report of each annual audit
23 pursuant to paragraph (1) shall be included in the
24 annual report submitted in accordance with section
25 102(7).

1 **SEC. 105. MANAGEMENT.**

2 (a) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNA-
3 TION OF CHAIRPERSON.—

4 (1) BOARD OF DIRECTORS.—The management
5 of the Consortium shall be vested in a board of di-
6 rectors (referred to in this title as the “Board”)
7 composed of not less than 3 members.

8 (2) CHAIRPERSON.—The Secretary of the
9 Treasury, or the designee of the Secretary, shall
10 serve as the chairperson of the Board.

11 (3) MEMBERSHIP.—The members of the Board
12 shall include—

13 (A) the Secretary of Homeland Security
14 and the Secretary of Commerce, or the des-
15 ignees of such Secretaries, respectively, but only
16 during such times as there are fewer than two
17 States participating in the Consortium; and

18 (B) a member from each State partici-
19 pating in the Consortium, who shall be ap-
20 pointed by such State.

21 (b) BYLAWS.—The Board may prescribe, amend, and
22 repeal such bylaws as may be necessary for carrying out
23 the functions of the Consortium.

24 (c) COMPENSATION, ACTUAL, NECESSARY, AND
25 TRANSPORTATION EXPENSES.—

1 (1) NON-FEDERAL EMPLOYEES.—A member of
2 the Board who is not otherwise employed by the
3 Federal Government shall be entitled to receive the
4 daily equivalent of the annual rate of basic pay pay-
5 able for level IV of the Executive Schedule under
6 section 5315 of title 5, United States Code, as in ef-
7 fect from time to time, for each day (including travel
8 time) during which such member is engaged in the
9 actual performance of duties of the Consortium.

10 (2) FEDERAL EMPLOYEES.—A member of the
11 Board who is an officer or employee of the Federal
12 Government shall serve without additional pay (or
13 benefits in the nature of compensation) for service
14 as a member of the Consortium.

15 (3) TRAVEL EXPENSES.—Members of the Con-
16 sortium shall be entitled to receive travel expenses,
17 including per diem in lieu of subsistence, equivalent
18 to those set forth in subchapter I of chapter 57 of
19 title 5, United States Code.

20 (d) QUORUM.—A majority of the Board shall con-
21 stitute a quorum.

22 (e) EXECUTIVE DIRECTOR.—The Board shall ap-
23 point an executive director of the Consortium on such
24 terms as the Board may determine.

1 **SEC. 106. STAFF; EXPERTS AND CONSULTANTS.**

2 (a) STAFF.—

3 (1) APPOINTMENT.—The Board of the Consor-
4 tium may appoint and terminate such other staff as
5 are necessary to enable the Consortium to perform
6 its duties.

7 (2) COMPENSATION.—The Board of the Con-
8 sortium may fix the compensation of the executive
9 director and other staff.

10 (b) EXPERTS AND CONSULTANTS.—The Board shall
11 procure the services of experts and consultants as the
12 Board considers appropriate.

13 **SEC. 107. FEDERAL LIABILITY.**

14 The Federal Government and the Consortium shall
15 not bear any liabilities arising from the actions of the Con-
16 sortium. Participating States shall retain all catastrophe
17 risk until the completion of a transaction described in
18 paragraphs (2) and (3) of section 102.

19 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to carry out
21 this title \$20,000,000 for each of fiscal years 2010
22 through 2014.

1 **TITLE II—CATASTROPHE**
2 **OBLIGATION GUARANTEES**

3 **SEC. 201. PURPOSES.**

4 The purposes of this title are to establish a pro-
5 gram—

6 (1) to promote the availability of private capital
7 to provide liquidity and capacity to State catas-
8 trophe insurance programs; and

9 (2) to expedite the payment of claims under
10 State catastrophe insurance programs and better as-
11 sist the financial recovery from significant natural
12 catastrophes by authorizing the Secretary of the
13 Treasury to guarantee debt for such purposes.

14 **SEC. 202. ESTABLISHMENT OF DEBT GUARANTEE PRO-**
15 **GRAM.**

16 (a) **AUTHORITY OF SECRETARY.**—The Secretary of
17 the Treasury is authorized and shall have the powers and
18 authorities necessary to guarantee, and to enter into com-
19 mitments to guarantee, holders of debt against loss of
20 principal or interest, or both, on any such debt issued by
21 eligible State programs for purposes of this title, provided
22 that the total principal amount of debt obligations guaran-
23 teed by the Secretary—

24 (1) for eligible State programs that cover earth-
25 quake peril shall not exceed \$5,000,000,000; and

1 (2) for eligible State programs that cover all
2 other perils shall not exceed \$20,000,000,000.

3 (b) CONDITIONS FOR GUARANTEE ELIGIBILITY.—A
4 debt guarantee under this section may be made only if
5 the Secretary has issued a commitment to guarantee to
6 an eligible State program. The commitment to guarantee
7 shall be for a period of 3 years and may be extended by
8 the Secretary for a period of 1 year on each annual anni-
9 versary of the issuance of the commitment to guarantee.
10 The commitment to guarantee and each extension of such
11 commitment may be issued by the Secretary only if the
12 following requirements are satisfied:

13 (1) The eligible State program submits to the
14 Secretary a report setting forth, in such form and
15 including such information as the Secretary shall re-
16 quire, how the eligible State program plans to repay
17 the debt.

18 (2) Based upon the eligible State program's re-
19 port submitted pursuant to paragraph (1), the Sec-
20 retary determines there is reasonable assurance that
21 the eligible State program can meet its repayment
22 obligation under the debt.

23 (3) The eligible State program enters into an
24 agreement with the Secretary, as the Secretary shall
25 require, that the eligible State program will not use

1 Federal funds of any kind or from any Federal
2 source (including any disaster or other financial as-
3 sistance, loan proceeds, and any other assistance or
4 subsidy) to repay the debt.

5 (4) The commitment to guarantee shall specify
6 the fees for debt guarantee coverage.

7 (5) The maximum term of the debt that shall
8 be specified in a commitment issued under this sec-
9 tion may not exceed 30 years.

10 (c) MANDATORY ASSISTANCE FOR ELIGIBLE STATE
11 PROGRAMS.—The Secretary shall upon the request of an
12 eligible State program and pursuant to a commitment to
13 guarantee issued under subsection (b), provide a guar-
14 antee under subsection (d) for such eligible State program
15 in the amount requested by such eligible State program,
16 subject to the limitation under subsection (d)(2).

17 (d) CATASTROPHIC DEBT GUARANTEE.—A debt
18 guarantee under this subsection for an eligible State pro-
19 gram shall be subject to the following requirements:

20 (1) PRECONDITIONS.—The eligible State pro-
21 gram shows to the satisfaction of the Secretary that
22 insured losses in the State to the eligible State pro-
23 gram arising from the event or events covered by the
24 commitment to guarantee are likely to exceed the eli-

1 eligible State program's available cash resources, as
2 calculated on the date of the event.

3 (2) AMOUNT.—The aggregate principal amount
4 of the debt guaranteed following an event or events
5 referred to in paragraph (1) may not exceed the
6 amount by which the insured losses expected to be
7 sustained by the State program as a result of such
8 event or events exceed 80 percent of the qualifying
9 assets of the eligible State program as stated in the
10 most recent quarterly financial statement filed with
11 the domiciliary regulator of the program prior to the
12 event or events, except that, for eligible State pro-
13 grams that are not required to file such quarterly fi-
14 nancial statements, the aggregate principal amount
15 of the debt guaranteed may not exceed the amount
16 by which insured losses sustained by the State pro-
17 gram as a result of such event or events exceed 80
18 percent of the unrestricted net assets as stated in
19 the annual financial statement for the program's fis-
20 cal year ending immediately prior to the event or
21 events.

22 (3) USE OF FUNDS.—Amounts of debt guaran-
23 teed under this section shall be used only to pay the
24 costs of issuing debt and to pay the insured losses
25 and loss adjustment expenses incurred by an eligible

1 State program. Such amounts shall not be used for
2 any other purpose.

3 (e) FUNDING.—There are authorized to be appro-
4 priated such sums as may be necessary to carry out this
5 section.

6 **SEC. 203. EFFECT OF GUARANTEE.**

7 The issuance of any guarantee by the Secretary
8 under this title shall be conclusive evidence that—

9 (1) the guarantee has been properly obtained;

10 (2) the underlying debt qualified for such guar-
11 antee; and

12 (3) the guarantee is valid, legal, and enforce-
13 able.

14 **SEC. 204. FULL FAITH AND CREDIT.**

15 The full faith and credit of the United States is
16 pledged to the payment of all guarantees issued under this
17 title with respect to principal and interest.

18 **SEC. 205. FEES FOR GUARANTEES; AMOUNT; COLLECTION.**

19 The Secretary shall charge and collect fees for each
20 guarantee in amounts specified in the commitment to
21 guarantee, which shall be in amounts sufficient in the
22 judgment of the Secretary at the time of issuance of the
23 commitment to guarantee to cover applicable administra-
24 tive costs and probable losses on the guaranteed obliga-
25 tions covered by the commitment to guarantee, but in any

1 event not to exceed one-half of 1 per centum per annum
2 of the outstanding indebtedness covered by each guar-
3 antee.

4 **SEC. 206. PAYMENT OF LOSSES.**

5 (a) IN GENERAL.—The Secretary agrees to pay to
6 the duly appointed paying agent or trustee (in this section
7 referred to as the “Fiscal Agent”) for the eligible State
8 program that portion of the principal and interest on any
9 debt guaranteed under this title that shall become due for
10 payment but shall be unpaid by the eligible State program
11 as a result of such program having provided insufficient
12 funds to the Fiscal Agent to make such payments. The
13 Secretary shall make such payments on the date such
14 principal or interest becomes due for payment or on the
15 business day next following the day on which the Secretary
16 shall receive notice of failure on the part of the eligible
17 State program to provide sufficient funds to the Fiscal
18 Agent to make such payments, whichever is later. Upon
19 making such payment, the Secretary shall be subrogated
20 to all the rights of the ultimate recipient of the payment.
21 The Secretary shall be entitled to recover from the eligible
22 State program the amount of any payments made pursu-
23 ant to any guarantee entered into under this title.

24 (b) ROLE OF THE ATTORNEY GENERAL.—The Attor-
25 ney General shall take such action as may be appropriate

1 to enforce any right accruing to the United States as a
2 result of the issuance of any guarantee under this title.

3 (c) RIGHT OF THE SECRETARY.—Notwithstanding
4 any other provision of law relating to the acquisition, han-
5 dling, or disposal of property by the United States, the
6 Secretary shall have the right in the discretion of the Sec-
7 retary to complete, recondition, reconstruct, renovate, re-
8 pair, maintain, operate, or sell any property acquired by
9 the Secretary pursuant to the provisions of this title.

10 **SEC. 207. REGULATIONS.**

11 The Secretary shall issue any regulations necessary
12 to carry out the debt-guarantee program established under
13 this title.

14 **TITLE III—REINSURANCE COV-**
15 **ERAGE FOR ELIGIBLE STATE**
16 **PROGRAMS**

17 **SEC. 301. PROGRAM AUTHORITY.**

18 The Secretary of the Treasury, shall make available
19 for purchase, only by eligible State programs, contracts
20 for reinsurance coverage under this title.

21 **SEC. 302. CONTRACT PRINCIPLES.**

22 Contracts for reinsurance coverage made available
23 under this title—

1 (1) shall not displace or compete with the pri-
2 vate insurance or reinsurance markets or the capital
3 market;

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

6 (3) shall provide coverage based solely on in-
7 sured losses covered by the eligible State program
8 purchasing the contract.

9 **SEC. 303. TERMS OF REINSURANCE CONTRACTS.**

10 (a) MINIMUM ATTACHMENT POINT.—Notwith-
11 standing any other provision of this title, a contract for
12 reinsurance coverage under this title for an eligible State
13 program may not be made available or sold unless the con-
14 tract requires that the eligible State program sustain an
15 amount of retained losses from events in an amount, as
16 determined by the Secretary, that is equal to the amount
17 of losses projected to be incurred from a single event of
18 such magnitude that it has a 0.5 percent chance of being
19 equaled or exceeded in any year.

20 (b) NINETY PERCENT COVERAGE OF INSURED
21 LOSSES IN EXCESS OF RETAINED LOSSES.—Each con-
22 tract for reinsurance coverage under this title shall provide
23 that the amount paid out under the contract shall be equal
24 to 90 percent of the amount of insured losses of the eligi-
25 ble State program in excess of the amount of retained

1 losses that the contract requires, pursuant to subsection
2 (a), to be incurred by such program.

3 (c) MATURITY.—The term of each contract for rein-
4 surance coverage under this title shall not exceed 1 year
5 or such other term as the Secretary may determine.

6 (d) PAYMENT CONDITION.—Each contract for rein-
7 surance coverage under this title shall authorize claims
8 payments to the eligible State program purchasing the
9 coverage only for insured losses provided under the con-
10 tract.

11 (e) MULTIPLE EVENTS.—The contract shall cover
12 any insured losses from one or more events that may occur
13 during the term of the contract and shall provide that if
14 multiple events occur, the retained losses requirement
15 under subsection (a) shall apply on a calendar year basis,
16 in the aggregate and not separately to each individual
17 event.

18 (f) TIMING OF CLAIMS.—Claims under a contract for
19 reinsurance coverage under this title shall include only in-
20 surance claims that are reported to the eligible State pro-
21 gram within the 3-year period beginning upon the event
22 or events for which payment under the contract is pro-
23 vided.

24 (g) ACTUARIAL PRICING.—The price of coverage
25 under a reinsurance contract under this title shall be an

1 amount, established by the Secretary at a level that annu-
2 ally produces expected premiums that shall be sufficient
3 to pay the reasonably anticipated cost of all claims, loss
4 adjustment expenses, all administrative costs of reinsur-
5 ance coverage offered under this title, and any such out-
6 wards reinsurance, as described in section 305(c)(3), as
7 the Secretary considers prudent taking into consideration
8 the demand for reinsurance coverage under this title.

9 (h) INFORMATION.—Each contract for reinsurance
10 coverage under this title shall contain a condition pro-
11 viding that the Secretary may require the eligible State
12 program that is covered under the contract to submit to
13 the Secretary all information on the eligible State program
14 relevant to the duties of the Secretary under this title.

15 (i) OTHERS.—Contracts for reinsurance coverage
16 under this title shall contain such other terms as the Sec-
17 retary considers necessary to carry out this title and to
18 ensure the long-term financial integrity of the program
19 under this title.

20 **SEC. 304. MAXIMUM FEDERAL LIABILITY.**

21 (a) IN GENERAL.—Subject to subsection (b) and not-
22 withstanding any other provision of law, the aggregate po-
23 tential liability for payment of claims under all contracts
24 for reinsurance coverage under this title sold in any single
25 year by the Secretary shall not exceed \$200,000,000,000

1 or such lesser amount as is determined by the Secretary
2 based on review of the market for reinsurance coverage
3 under this title.

4 (b) LIMITATION.—The authority of the Secretary to
5 enter into contracts for reinsurance coverage under this
6 title shall be effective for any fiscal year only to such ex-
7 tent or in such amounts as are or have been provided in
8 appropriation Acts for such fiscal year for the aggregate
9 potential liability for payment of claims under all contracts
10 for reinsurance coverage under this title.

11 **SEC. 305. FEDERAL NATURAL CATASTROPHE REINSUR-**
12 **ANCE FUND.**

13 (a) ESTABLISHMENT.—There is established within
14 the Treasury of the United States a fund to be known
15 as the Federal Natural Catastrophe Reinsurance Fund (in
16 this section referred to as the “Fund”).

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

18 (1) amounts received annually from the sale of
19 contracts for reinsurance coverage under this title;

20 (2) any amounts appropriated for the aggregate
21 potential liability for payment of claims under all
22 contracts for reinsurance coverage under this title;
23 and

24 (3) any amounts earned on investments of the
25 Fund pursuant to subsection (d).

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

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

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

10 (3) OUTWARDS REINSURANCE.—To obtain
11 retrocessional or other reinsurance coverage of any
12 kind to cover risk reinsured under contracts for rein-
13 surance coverage made available under this title.

14 (d) INVESTMENT.—If the Secretary determines that
15 the amounts in the Fund are in excess of current needs,
16 the Secretary may invest such amounts as the Secretary
17 considers advisable in obligations issued or guaranteed by
18 the United States.

19 **SEC. 306. REGULATIONS.**

20 The Secretary shall issue any regulations necessary
21 to carry out the program for reinsurance coverage under
22 this title.

1 **TITLE IV—MITIGATION GRANT**
2 **PROGRAM**

3 **SEC. 401. MITIGATION GRANT PROGRAM.**

4 (a) ESTABLISHMENT.—The Secretary of Housing
5 and Urban Development shall establish and carry out a
6 program to provide grants to eligible entities to develop,
7 enhance, or maintain programs to prevent and mitigate
8 losses from natural catastrophes.

9 (b) GRANTS.—A grant provided under subsection (a)
10 shall be used to reduce loss of life and property by—

11 (1) encouraging awareness of risk factors and
12 what steps can be taken to eliminate or reduce them;

13 (2) assisting in the determination of the loca-
14 tion of risk by giving careful consideration to the
15 natural risks for the location of a property;

16 (3) providing inspections of homes to identify
17 areas to strengthen such homes and reduce exposure
18 to natural catastrophes; or

19 (4) providing financial assistance to home-
20 owners to retrofit homes to reduce exposure to nat-
21 ural catastrophes.

22 (c) CONSULTATION WITH EXPERTS.—In carrying
23 out the program established under subsection (a), the Sec-
24 retary of Housing and Urban Development shall consult
25 with—

- 1 (1) disaster preparedness and response organi-
2 zations;
3 (2) homebuilders;
4 (3) real estate professionals;
5 (4) building code enforcement agencies; and
6 (5) any other person that the Secretary con-
7 siders appropriate.

8 (d) ELIGIBLE ENTITY DEFINED.—In this section,
9 the term “eligible entity” means a State or local govern-
10 ment, or a part or program of a State or local government.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this section
13 \$15,000,000 for each of fiscal years 2010 through 2014.

14 **TITLE V—GENERAL PROVISIONS**

15 **SEC. 501. ELIGIBLE STATE PROGRAMS.**

16 (a) ELIGIBLE STATE PROGRAMS.—A State program
17 shall be considered an “eligible State program” for pur-
18 poses of this Act if the Secretary certifies, in accordance
19 with the procedures established under subsection (c), that
20 the State program complies with the following require-
21 ments:

22 (1) STATE PROGRAM DESIGN.—The State pro-
23 gram is established and authorized by State law as
24 an insurance program or a reinsurance program that
25 is designed to improve private insurance markets

1 and that offers residential property insurance cov-
2 erage for losses arising from any personal residential
3 line of insurance, as defined in the Uniform Prop-
4 erty and Casualty Product Coding Matrix of the Na-
5 tional Association of Insurance Commissioners.

6 (2) OPERATION.—The State program shall
7 meet the following requirements:

8 (A) A majority of the members of the gov-
9 erning body of the State program shall be pub-
10 lic officials or appointed by public officials.

11 (B) The State shall have a financial inter-
12 est in the State program.

13 (C) If the State has at any time appro-
14 priated amounts from the State program's
15 funds for any purpose other than payments for
16 losses insured under the State program, or pay-
17 ments made in connection with any of the State
18 program's authorized activities, the State shall
19 have returned such amounts to the State fund,
20 together with interest on such amounts.

21 (3) TAX STATUS.—The State program shall
22 have received from the Secretary (or the Secretary's
23 designee) a written determination, within the mean-
24 ing of section 6110(b) of the Internal Revenue Code
25 of 1986, that the program either—

1 (A) constitutes an “integral part” of the
2 State that has created it; or

3 (B) is otherwise exempt from Federal in-
4 come taxation.

5 (4) EARNINGS.—The State program may not
6 provide for any distribution of any part of any net
7 profits of the State program to any insurer that par-
8 ticipates in the State program.

9 (5) PREVENTION AND MITIGATION.—

10 (A) MITIGATION OF LOSSES.—The State
11 program shall include provisions designed to en-
12 courage and support programs to mitigate
13 losses from natural catastrophes for which the
14 State insurance or reinsurance program was es-
15 tablished to provide insurance coverage.

16 (B) OPERATIONAL REQUIREMENTS.—The
17 State program shall operate in a State that—

18 (i) requires that an appropriate public
19 body within the State shall have adopted
20 adequate mitigation measures (with effec-
21 tive enforcement provisions) which the Sec-
22 retary finds are consistent with the criteria
23 for construction described in the Inter-
24 national Code Council building codes;

1 (ii) has taken actions to establish an
2 insurance rate structure that takes into ac-
3 count measures to mitigate insured losses;
4 and

5 (iii) ensures, to the extent that rein-
6 surance coverage made available under the
7 eligible State program results in any cost
8 savings in providing insurance coverage for
9 risks in such State, such cost savings are
10 reflected in premium rates charged to con-
11 sumers for such coverage;

12 (6) REQUIREMENTS REGARDING COVERAGE.—

13 The State program—

14 (A) may not, except for charges or assess-
15 ments related to post-event financing or bond-
16 ing, involve cross-subsidization between any
17 separate property and casualty insurance lines
18 covered under the State program pursuant to
19 paragraph (1);

20 (B) shall be subject to a requirement
21 under State law that for any insurance coverage
22 made available under the State insurance pro-
23 gram or for any reinsurance coverage for such
24 insurance coverage made available under the
25 State reinsurance program, the premium rates

1 charged shall be actuarially sound or actuarially
2 indicated; and

3 (C) shall make available to all qualifying
4 policyholders insurance or reinsurance coverage,
5 as applicable, and mitigation services on a basis
6 that is not unfairly discriminatory.

7 (7) LAND USE AND ZONING.—The State pro-
8 gram, to the extent possible, seeks to encourage ap-
9 propriate State and local government units to de-
10 velop comprehensive land use and zoning plans that
11 include natural hazard mitigation.

12 (8) RISK-BASED CAPITAL REQUIREMENTS.—
13 The State program complies with the risk-based cap-
14 ital requirements under subsection (b);

15 (9) OTHER REQUIREMENTS.—The State pro-
16 gram complies with such additional organizational,
17 underwriting, and financial requirements as the Sec-
18 retary shall, by regulation, provide to carry out the
19 purposes of this Act.

20 (b) RISK-BASED CAPITAL REQUIREMENTS.—

21 (1) IN GENERAL.—Except for programs deemed
22 to be eligible State programs pursuant to subsection
23 (d), each eligible State program shall maintain risk-
24 based capital in accordance with requirements estab-
25 lished by the Secretary, in consultation with the Na-

1 tional Association of Insurance Commissioners and
2 consistent with the Risk-Based Capital Model Act of
3 the National Association of Insurance Commis-
4 sioners, and take into consideration asset risk, credit
5 risk, underwriting risk, and such other relevant risk
6 as determined by the Secretary.

7 (2) REPORT.—For each calendar year, each eli-
8 gible State program shall prepare and submit to the
9 Secretary a report identifying its risk based capital,
10 at such time after the conclusion of such year, and
11 containing such information and in such form, as
12 the Secretary shall require.

13 (c) CERTIFICATION.—The Secretary shall establish
14 procedures for initial certification and recertification as an
15 eligible State program.

16 (d) TRANSITIONAL MECHANISMS.—For the 5-year
17 period beginning on the date of the enactment of this Act,
18 in the case of a State that does not have an eligible State
19 program for the State, a State residual insurance market
20 entity, or State-sponsored provider of natural catastrophe
21 insurance, for such State shall be considered to be an eligi-
22 ble State program, but only if such State residual insur-
23 ance market entity, or State-sponsored provider of natural
24 catastrophe insurance, was in existence before such date
25 of enactment.

1 (e) REINSURANCE TO COVER EXPOSURE.—This sec-
2 tion may not be construed to limit or prevent any eligible
3 State program from obtaining reinsurance coverage for in-
4 sured losses retained by insurers pursuant to this section.

5 **SEC. 502. STUDY AND CONDITIONAL COVERAGE OF COM-**
6 **MERCIAL RESIDENTIAL LINES OF INSUR-**
7 **ANCE.**

8 The Secretary shall study, on an expedited basis, the
9 need for and impact of expanding the programs estab-
10 lished by this Act to apply to insured losses of eligible
11 State programs for losses arising from all commercial in-
12 surance policies which provide coverage for properties that
13 are composed predominantly of residential rental units.
14 The Secretary shall consider the catastrophic insurance
15 and reinsurance market for commercial residential prop-
16 erties, and specifically the availability of adequate private
17 insurance coverage when an insured event occurs, the im-
18 pact any such capacity restrictions have on housing afford-
19 ability for renters, and the likelihood that such an expan-
20 sion of the program would increase insurance capacity for
21 this market segment.

22 **SEC. 503. DEFINITIONS.**

23 In this Act:

24 (1) COMMITMENT TO GUARANTEE.—The term
25 “commitment to guarantee” means a commitment to

1 make debt guarantees to an eligible State program
2 pursuant to section 202(c).

3 (2) ELIGIBLE STATE PROGRAM.—The term “eli-
4 gible State program” means a State program that
5 the Secretary certifies as an eligible State program
6 under section 501.

7 (3) INSURED LOSS.—The term “insured loss”
8 means any loss that is determined by an eligible
9 State program as being covered by insurance or re-
10 insurance made available under that eligible State
11 program.

12 (4) QUALIFYING ASSETS.—The term “quali-
13 fying assets” means the policyholder surplus of the
14 eligible State program as stated in the most recent
15 quarterly financial statement filed by the program
16 with the domiciliary regulator of the program in the
17 last quarter ending prior to the event or events.

18 (5) SECRETARY.—The term “Secretary” means
19 the Secretary of the Treasury.

20 (6) STATE.—The term “State” includes the
21 several States, the District of Columbia, the Com-
22 monwealth of Puerto Rico, Guam, the Common-
23 wealth of the Northern Mariana Islands, the United
24 States Virgin Islands, and American Samoa, and

1 any other territory or possession of the United
2 States.

3 **SEC. 504. REGULATIONS.**

4 The Secretary shall issue such regulations as may be
5 necessary to carry out this Act.

○