

112TH CONGRESS
1ST SESSION

H. R. 2582

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

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2011

Ms. WILSON of Florida 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,*

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Homeowners’ Defense Act of 2011”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 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 insurance.
- Sec. 503. Study of risk-based pricing and State program rates.
- Sec. 504. Definitions.
- Sec. 505. 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;

1 (2) although catastrophic natural disasters
2 occur infrequently, they will continue to occur and
3 are predictable;

4 (3) such disasters generate large economic
5 losses and a major component of those losses comes
6 from damage and destruction to homes;

7 (4) for the majority of Americans, their invest-
8 ment in their home represents their single biggest
9 asset and the protection of that investment is para-
10 mount to economic and social stability;

11 (5) the United States needs to take and support
12 State actions to be better prepared for and better
13 protected from catastrophes;

14 (6) as the risk of catastrophic losses grows, so
15 do the risks that any premiums collected by private
16 insurers for extending coverage will be insufficient to
17 cover future catastrophes, and private insurers, in
18 an effort to protect their shareholders and policy-
19 holders (in the case of mutually owned companies),
20 have thus significantly raised premiums and cur-
21 tailed insurance coverage in States exposed to major
22 catastrophes;

23 (7) such effects on the insurance industry have
24 been harmful to economic activity in States exposed

1 to major catastrophes and have placed significant
2 burdens on residents of such States;

3 (8) Hurricanes Katrina, Rita, and Wilma
4 struck the United States in 2005, causing over
5 \$200,000,000,000 in total economic losses, and in-
6 sured losses to homeowners in excess of
7 \$50,000,000,000;

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

11 (10) when Federal assistance is provided to the
12 States, accountability for Federal funds disbursed is
13 paramount;

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

22 (12) States that are recipients of Federal funds
23 must be responsible to account for and provide an
24 efficient means for distribution of funds to home-
25 owners to enable the rapid rebuilding of local econo-

1 mies after a catastrophic event without unduly bur-
2 dening taxpayers who live in areas seldom affected
3 by natural disasters;

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

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

16 (15) it is the proper role of the Federal Govern-
17 ment to prepare for and protect its citizens from ca-
18 tastrophes and to facilitate consumer protection, vic-
19 tim assistance, and recovery, including financial re-
20 covery.

21 (b) PURPOSES.—The purposes of this Act are to es-
22 tablish a program to provide Federal support for State-
23 sponsored insurance programs to help homeowners pre-
24 pare for and recover from the damages caused by natural
25 catastrophes, to encourage mitigation and prevention for

1 such catastrophes, to promote the use of private market
2 capital as a means to insure against such catastrophes,
3 to expedite the payment of claims and better assist in the
4 financial recovery from such catastrophes.

5 **TITLE I—NATIONAL CATAS-**
6 **TROPHE RISK CONSORTIUM**

7 **SEC. 101. ESTABLISHMENT; STATUS; PRINCIPAL OFFICE;**
8 **MEMBERSHIP.**

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

12 (b) **STATUS.**—The Consortium is not a department,
13 agency, or instrumentality of the United States Govern-
14 ment.

15 (c) **PRINCIPAL OFFICE.**—The principal office and
16 place of business of the Consortium shall be such location
17 within the United States determined by the Board of Di-
18 rectors to be the most advantageous for carrying out the
19 purpose and functions of the Consortium.

20 (d) **MEMBERSHIP.**—Any State that has established a
21 reinsurance fund or has authorized the operation of a
22 State residual insurance market entity, or State-sponsored
23 provider of natural catastrophe insurance, shall be eligible
24 to participate in the Consortium.

1 **SEC. 102. FUNCTIONS.**

2 The Consortium shall—

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

9 (2) at the discretion of the affected members
10 and on a conduit basis, issue securities and other fi-
11 nancial instruments linked to the catastrophe risks
12 insured or reinsured through members of the Con-
13 sortium in the capital markets;

14 (3) coordinate reinsurance contracts between
15 participating, qualified reinsurance funds and pri-
16 vate parties;

17 (4) act as a centralized repository of State risk
18 information that can be accessed by private-market
19 participants seeking to participate in the trans-
20 actions described in paragraphs (2) and (3) of this
21 section;

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

25 (6) perform any other functions, other than as-
26 suming risk or incurring debt, that are deemed nec-

1 essary to aid in the transfer of catastrophe risk from
2 participating States to private parties; and

3 (7) submit annual reports to Congress describ-
4 ing the activities of the Consortium for the pre-
5 ceding year, and the first such annual report shall
6 include an assessment of the costs to States and re-
7 gions associated with catastrophe risk and an anal-
8 ysis of the costs and benefits, for States not partici-
9 pating in the Consortium, of such nonparticipation.

10 **SEC. 103. POWERS.**

11 The Consortium—

12 (1) may make and perform such contracts and
13 other agreements with any individual or other pri-
14 vate or public entity however designated and wher-
15 ever situated, as may be necessary for carrying out
16 the functions of the Consortium; and

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

20 **SEC. 104. NONPROFIT ENTITY; CONFLICTS OF INTEREST;**
21 **AUDITS.**

22 (a) NONPROFIT ENTITY.—The Consortium shall be
23 a nonprofit entity and no part of the net earnings of the
24 Consortium shall inure to the benefit of any member,
25 founder, contributor, or individual.

1 (b) CONFLICTS OF INTEREST.—No director, officer,
2 or employee of the Consortium shall in any manner, di-
3 rectly or indirectly, participate in the deliberation upon or
4 the determination of any question affecting his or her per-
5 sonal interests or the interests of any Consortium, part-
6 nership, or organization in which he or she is directly or
7 indirectly interested.

8 (c) AUDITS.—

9 (1) ANNUAL AUDIT.—The financial statements
10 of the Consortium shall be audited annually in ac-
11 cordance with generally accepted auditing standards
12 by independent certified public accountants.

13 (2) REPORTS.—The report of each annual audit
14 pursuant to paragraph (1) shall be included in the
15 annual report submitted in accordance with section
16 102(7).

17 (d) PROHIBITION ON ELECTION AND LOBBYING AC-
18 TIVITIES.—

19 (1) FEDERAL.—The Consortium may not—

20 (A) make any contribution to a candidate
21 for election for Federal office or to a political
22 committee;

23 (B) employ or retain—

1 (i) a registered lobbyist under the
2 Lobbying Disclosure Act of 1995 (2 U.S.C.
3 1601 et seq.); or

4 (ii) an organization that employs one
5 or more lobbyists and is registered under
6 section 4(a)(2) of such Act (2 U.S.C.
7 1603(a)(2)); or

8 (C) provide any thing of value, other than
9 educational materials or information, to any
10 elected official of the Federal Government.

11 For purposes of this paragraph, the terms “con-
12 tribution”, “candidate”, “Federal office”, and “po-
13 litical committee” have the meanings given such
14 terms in section 301 of the Federal Election Cam-
15 paign Act of 1971 (2 U.S.C. 431).

16 (2) CONSORTIUM.—The Consortium may not—

17 (A) make any contribution to a candidate
18 for election for any State or local office or to
19 any committee, club, association, or other group
20 that receives contributions or makes expendi-
21 tures for the purpose of influencing any such
22 election;

23 (B) employ or retain any person who en-
24 gages in influencing legislating (as such term is
25 defined in section 4911(d) of the Internal Rev-

1 enue Code of 1986 (26 U.S.C. 4911(d))) of any
2 State or local legislative body; or

3 (C) provide any thing of value, other than
4 educational materials or information, to any
5 elected official of any State or local government.

6 **SEC. 105. MANAGEMENT.**

7 (a) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNA-
8 TION OF CHAIRPERSON.—

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

13 (2) CHAIRPERSON.—The Secretary of the
14 Treasury, or the designee of the Secretary, shall
15 serve as the chairperson of the Board.

16 (3) MEMBERSHIP.—The members of the Board
17 shall include—

18 (A) the Secretary of Homeland Security
19 and the Secretary of Commerce, or the des-
20 ignees of such Secretaries, respectively, but only
21 during such times as there are fewer than two
22 States participating in the Consortium; and

23 (B) a member from each State partici-
24 pating in the Consortium, who shall be ap-
25 pointed by such State.

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

4 (c) COMPENSATION, ACTUAL, NECESSARY, AND
5 TRANSPORTATION EXPENSES.—

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

15 (2) FEDERAL EMPLOYEES.—A member of the
16 Board who is an officer or employee of the Federal
17 Government shall serve without additional pay (or
18 benefits in the nature of compensation) for service
19 as a member of the Consortium.

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

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

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

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

7 (a) STAFF.—

8 (1) APPOINTMENT.—The Board of the Consor-
9 tium may appoint and terminate such other staff as
10 are necessary to enable the Consortium to perform
11 its duties.

12 (2) COMPENSATION.—The Board of the Con-
13 sortium may fix the compensation of the executive
14 director and other staff.

15 (b) EXPERTS AND CONSULTANTS.—The Board shall
16 procure the services of experts and consultants as the
17 Board considers appropriate.

18 **SEC. 107. FEDERAL LIABILITY.**

19 The Federal Government and the Consortium shall
20 not bear any liabilities arising from the actions of the Con-
21 sortium. Participating States shall retain all catastrophe
22 risk until the completion of a transaction described in
23 paragraphs (2) and (3) of section 102.

1 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to carry out
3 this title \$20,000,000 for each of fiscal years 2012
4 through 2016.

5 **TITLE II—CATASTROPHE**
6 **OBLIGATION GUARANTEES**

7 **SEC. 201. PURPOSES.**

8 The purposes of this title are to establish a pro-
9 gram—

10 (1) to promote the availability of private capital
11 to provide liquidity and capacity to State catas-
12 trophe insurance programs; and

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

18 **SEC. 202. ESTABLISHMENT OF DEBT GUARANTEE PRO-**
19 **GRAM.**

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

1 that the total principal amount of debt obligations guaran-
2 teed by the Secretary—

3 (1) for eligible State programs that cover earth-
4 quake peril shall not exceed \$3,500,000,000; and

5 (2) for eligible State programs that cover all
6 other perils shall not exceed \$17,000,000,000.

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

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

22 (2) Based upon the eligible State program's re-
23 port submitted pursuant to paragraph (1), the Sec-
24 retary determines there is reasonable assurance that

1 the eligible State program can meet its repayment
2 obligation under the debt.

3 (3) The eligible State program enters into an
4 agreement with the Secretary, as the Secretary shall
5 require, that the eligible State program will not use
6 Federal funds of any kind or from any Federal
7 source (including any disaster or other financial as-
8 sistance, loan proceeds, and any other assistance or
9 subsidy) to repay the debt.

10 (4) The commitment to guarantee shall specify
11 the fees for debt guarantee coverage.

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

15 (6) The Secretary determines that the eligible
16 State program does not cover losses arising from
17 floods to properties located in areas having special
18 flood hazards (as such term is defined for purposes
19 of the National Flood Insurance Act of 1968 and
20 the Flood Disaster Protection Act of 1973).

21 (c) MANDATORY ASSISTANCE FOR ELIGIBLE STATE
22 PROGRAMS.—The Secretary shall upon the request of an
23 eligible State program and pursuant to a commitment to
24 guarantee issued under subsection (b), provide a guar-
25 antee under subsection (d) for such eligible State program

1 in the amount requested by such eligible State program,
2 subject to the limitation under subsection (d)(2).

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

6 (1) PRECONDITIONS.—The eligible State pro-
7 gram shows to the satisfaction of the Secretary that
8 insured losses in the State to the eligible State pro-
9 gram arising from the event or events covered by the
10 commitment to guarantee are likely to exceed the eli-
11 gible State program’s available cash resources, as
12 calculated on the date of the event.

13 (2) AMOUNT.—The aggregate principal amount
14 of the debt guaranteed following an event or events
15 referred to in paragraph (1) may not exceed the
16 amount by which the insured losses expected to be
17 sustained by the State program as a result of such
18 event or events exceed 80 percent of the qualifying
19 assets of the eligible State program as stated in the
20 most recent quarterly financial statement filed with
21 the domiciliary regulator of the program prior to the
22 event or events, except that, for eligible State pro-
23 grams that are not required to file such quarterly fi-
24 nancial statements, the aggregate principal amount
25 of the debt guaranteed may not exceed the amount

1 by which insured losses sustained by the State pro-
2 gram as a result of such event or events exceed 80
3 percent of the unrestricted net assets as stated in
4 the annual financial statement for the program's fis-
5 cal year ending immediately prior to the event or
6 events.

7 (3) USE OF FUNDS.—Amounts of debt guaran-
8 teed under this section shall be used only to pay the
9 costs of issuing debt and to pay the insured losses
10 and loss adjustment expenses incurred by an eligible
11 State program. Such amounts shall not be used for
12 any other purpose.

13 (e) FUNDING.—There are authorized to be appro-
14 priated such sums as may be necessary to carry out this
15 section.

16 **SEC. 203. EFFECT OF GUARANTEE.**

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

19 (1) the guarantee has been properly obtained;

20 (2) the underlying debt qualified for such guar-
21 antee; and

22 (3) the guarantee is valid, legal, and enforce-
23 able.

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

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

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

6 The Secretary shall charge and collect fees for each
7 guarantee in amounts specified in the commitment to
8 guarantee, which shall be in amounts sufficient in the
9 judgment of the Secretary at the time of issuance of the
10 commitment to guarantee to cover applicable administra-
11 tive costs and probable losses on the guaranteed obliga-
12 tions covered by the commitment to guarantee, but in any
13 event not to exceed one-half of 1 per centum per annum
14 of the outstanding indebtedness covered by each guar-
15 antee.

16 **SEC. 206. PAYMENT OF LOSSES.**

17 (a) IN GENERAL.—The Secretary agrees to pay to
18 the duly appointed paying agent or trustee (in this section
19 referred to as the “Fiscal Agent”) for the eligible State
20 program that portion of the principal and interest on any
21 debt guaranteed under this title that shall become due for
22 payment but shall be unpaid by the eligible State program
23 as a result of such program having provided insufficient
24 funds to the Fiscal Agent to make such payments. The
25 Secretary shall make such payments on the date such
26 principal or interest becomes due for payment or on the

1 business day next following the day on which the Secretary
2 shall receive notice of failure on the part of the eligible
3 State program to provide sufficient funds to the Fiscal
4 Agent to make such payments, whichever is later. Upon
5 making such payment, the Secretary shall be subrogated
6 to all the rights of the ultimate recipient of the payment.
7 The Secretary shall be entitled to recover from the eligible
8 State program the amount of any payments made pursu-
9 ant to any guarantee entered into under this title.

10 (b) **ROLE OF THE ATTORNEY GENERAL.**—The Attor-
11 ney General shall take such action as may be appropriate
12 to enforce any right accruing to the United States as a
13 result of the issuance of any guarantee under this title.

14 (c) **RIGHT OF THE SECRETARY.**—Notwithstanding
15 any other provision of law relating to the acquisition, han-
16 dling, or disposal of property by the United States, the
17 Secretary shall have the right in the discretion of the Sec-
18 retary to complete, recondition, reconstruct, renovate, re-
19 pair, maintain, operate, or sell any property acquired by
20 the Secretary pursuant to the provisions of this title.

21 **SEC. 207. REGULATIONS.**

22 The Secretary shall issue any regulations necessary
23 to carry out the debt-guarantee program established under
24 this title.

1 **TITLE III—REINSURANCE COV-**
2 **ERAGE FOR ELIGIBLE STATE**
3 **PROGRAMS**

4 **SEC. 301. PROGRAM AUTHORITY.**

5 The Secretary of the Treasury, shall make available
6 for purchase, only by eligible State programs, contracts
7 for reinsurance coverage under this title.

8 **SEC. 302. CONTRACT PRINCIPLES.**

9 Contracts for reinsurance coverage made available
10 under this title—

11 (1) shall be priced on an actuarially sound
12 basis;

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

15 (3) shall provide coverage based solely on in-
16 sured losses covered by the eligible State program
17 purchasing the contract.

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

19 (a) **MINIMUM ATTACHMENT POINT AND LEVELS OF**
20 **COVERAGE.**—The Secretary shall establish attachment
21 points at which reinsurance coverage under this title is
22 provided to eligible State programs. In setting attachment
23 points and in determining the levels of reinsurance cov-
24 erage provided, the Secretary shall take into consider-
25 ation—

1 (1) the coverage available through eligible State
2 programs;

3 (2) the availability and accessibility of reinsur-
4 ance in the private market; and

5 (3) other factors as deemed appropriate by the
6 Secretary.

7 (b) NINETY PERCENT COVERAGE OF INSURED
8 LOSSES IN EXCESS OF RETAINED LOSSES.—Each con-
9 tract for reinsurance coverage under this title shall provide
10 that the amount paid out under the contract shall be equal
11 to 90 percent of the amount of insured losses of the eligi-
12 ble State program in excess of the amount of retained
13 losses that the contract requires, pursuant to subsection
14 (a), to be incurred by such program.

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

18 (d) PAYMENT CONDITION.—Each contract for rein-
19 surance coverage under this title shall authorize claims
20 payments to the eligible State program purchasing the
21 coverage only for insured losses provided under the con-
22 tract.

23 (e) MULTIPLE EVENTS.—The contract shall cover
24 any insured losses from one or more events that may occur
25 during the term of the contract and shall provide that if

1 multiple events occur, the retained losses requirement
2 under subsection (a) shall apply on a calendar year basis,
3 in the aggregate and not separately to each individual
4 event.

5 (f) TIMING OF CLAIMS.—Claims under a contract for
6 reinsurance coverage under this title shall include only in-
7 surance claims that are reported to the eligible State pro-
8 gram within the 3-year period beginning upon the event
9 or events for which payment under the contract is pro-
10 vided.

11 (g) ACTUARIAL PRICING.—The price of coverage
12 under a reinsurance contract under this title shall be an
13 amount, established by the Secretary at a level that annu-
14 ally produces expected premiums that shall be sufficient
15 to pay the reasonably anticipated cost of all claims (which
16 may not be equal only to average annual costs), loss ad-
17 justment expenses, all administrative costs of reinsurance
18 coverage offered under this title, and any such outwards
19 reinsurance, as described in section 305(e)(3), as the Sec-
20 retary considers prudent taking into consideration the de-
21 mand for reinsurance coverage under this title. The antici-
22 pated cost of all claims shall be comparable to amounts
23 being included in the price for similar layers of coverage
24 in the private sector, taking into account the savings asso-

1 ciated with non-profit and tax-exempt status of the Fund
2 established under section 305.

3 (h) INFORMATION.—Each contract for reinsurance
4 coverage under this title shall contain a condition pro-
5 viding that the Secretary may require the eligible State
6 program that is covered under the contract to submit to
7 the Secretary all information on the eligible State program
8 relevant to the duties of the Secretary under this title.

9 (i) OTHERS.—Contracts for reinsurance coverage
10 under this title shall contain such other terms as the Sec-
11 retary considers necessary to carry out this title and to
12 ensure the long-term financial integrity of the program
13 under this title.

14 **SEC. 304. MAXIMUM FEDERAL LIABILITY.**

15 (a) IN GENERAL.—Subject to subsection (b) and not-
16 withstanding any other provision of law, the aggregate po-
17 tential liability for payment of claims under all contracts
18 for reinsurance coverage under this title sold in any single
19 year shall be determined by the Secretary based on review
20 of the market for reinsurance coverage under this title.

21 (b) LIMITATION.—The authority of the Secretary to
22 enter into contracts for reinsurance coverage under this
23 title shall be effective for any fiscal year only to such ex-
24 tent or in such amounts as are or have been provided in
25 appropriation Acts for such fiscal year for the aggregate

1 potential liability for payment of claims under all contracts
2 for reinsurance coverage under this title.

3 **SEC. 305. FEDERAL NATURAL CATASTROPHE REINSUR-**
4 **ANCE FUND.**

5 (a) ESTABLISHMENT.—There is established within
6 the Treasury of the United States a fund to be known
7 as the Federal Natural Catastrophe Reinsurance Fund (in
8 this section referred to as the “Fund”).

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

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

12 (2) any amounts appropriated for the aggregate
13 potential liability for payment of claims under all
14 contracts for reinsurance coverage under this title;
15 and

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

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

20 (1) CONTRACT PAYMENTS.—For payments to
21 purchasers covered under contracts for reinsurance
22 coverage for eligible losses under such contracts.

23 (2) ADMINISTRATIVE EXPENSES.—To pay for
24 the administrative expenses incurred by the Sec-

1 retary in carrying out the reinsurance program
2 under this title.

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

7 (d) INVESTMENT.—The Secretary shall invest such
8 amounts in the Fund as the Secretary considers advisable
9 in obligations issued or guaranteed by the United States.
10 For purposes of the grant mandate in section 401(e) for
11 a fiscal year, the Secretary shall disclose the annual net
12 investment income available not later than 60 days after
13 the conclusion of such fiscal year and disperse appropriate
14 funds not later than 90 days after the conclusion of such
15 fiscal year.

16 **SEC. 306. REGULATIONS.**

17 The Secretary shall issue any regulations necessary
18 to carry out the program for reinsurance coverage under
19 this title.

20 **TITLE IV—MITIGATION GRANT**
21 **PROGRAM**

22 **SEC. 401. MITIGATION GRANT PROGRAM.**

23 (a) ESTABLISHMENT.—The Secretary of Housing
24 and Urban Development shall establish and carry out a
25 program to provide grants to eligible entities to develop,

1 enhance, or maintain programs to prevent and mitigate
2 losses from natural catastrophes.

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

5 (1) encouraging awareness of risk factors and
6 what steps can be taken to eliminate or reduce them,
7 including public education campaigns to promote cit-
8 izen and community preparedness;

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

12 (3) providing inspections of homes to identify
13 areas to strengthen such homes and reduce exposure
14 to natural catastrophes;

15 (4) providing financial assistance to home-
16 owners to retrofit homes to reduce exposure to nat-
17 ural catastrophes; or

18 (5) supporting disaster response readiness pro-
19 grams, including initiatives that develop, enhance ,or
20 maintain the capacity of a public safety organization
21 to be better prepared, equipped, and trained to re-
22 spond to natural catastrophes.

23 (c) CONSULTATION WITH EXPERTS.—In carrying
24 out the program established under subsection (a), the Sec-

1 retary of Housing and Urban Development shall consult
2 with—

3 (1) disaster preparedness and response organi-
4 zations;

5 (2) homebuilders;

6 (3) real estate professionals;

7 (4) building code enforcement agencies; and

8 (5) any other person that the Secretary con-
9 siders appropriate.

10 (d) **ELIGIBLE ENTITY DEFINED.**—In this section,
11 the term “eligible entity” means a State or local govern-
12 ment, a part or program of a State or local government,
13 or a nationally recognized, congressionally chartered dis-
14 aster response non-profit organization.

15 (e) **GRANT MANDATE.**—The Secretary shall, to the
16 extent provided in advance in appropriation Acts, use not
17 less than 35 percent of the net investment income from
18 the Federal Natural Catastrophe Reinsurance Fund
19 earned in each fiscal year pursuant to section 305(d) for
20 grants under this section.

21 **TITLE V—GENERAL PROVISIONS**

22 **SEC. 501. ELIGIBLE STATE PROGRAMS.**

23 (a) **ELIGIBLE STATE PROGRAMS.**—A State program
24 shall be considered an “eligible State program” for pur-
25 poses of this Act if the Secretary certifies, in accordance

1 with the procedures established under subsection (c), that
2 the State program complies with the following require-
3 ments:

4 (1) STATE PROGRAM DESIGN.—The State pro-
5 gram is established and authorized by State law as
6 an insurance program or a reinsurance program that
7 is designed to improve private insurance markets
8 and that offers residential property insurance cov-
9 erage for losses arising from any personal residential
10 line of insurance, as defined in the Uniform Prop-
11 erty and Casualty Product Coding Matrix of the Na-
12 tional Association of Insurance Commissioners.

13 (2) OPERATION.—The State program shall
14 meet the following requirements:

15 (A) A majority of the members of the gov-
16 erning body of the State program shall be pub-
17 lic officials or appointed by public officials.

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

20 (C) If the State has at any time appro-
21 priated amounts from the State program's
22 funds for any purpose other than payments for
23 losses insured under the State program, or pay-
24 ments made in connection with any of the State
25 program's authorized activities, the State shall

1 have returned such amounts to the State fund,
2 together with interest on such amounts.

3 (3) TAX STATUS.—The State program shall
4 have received from the Secretary (or the Secretary’s
5 designee) a written determination, within the mean-
6 ing of section 6110(b) of the Internal Revenue Code
7 of 1986, that the program either—

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

10 (B) is otherwise exempt from Federal in-
11 come taxation.

12 (4) EARNINGS.—The State program may not
13 provide for any distribution of any part of any net
14 profits of the State program to any insurer that par-
15 ticipates in the State program.

16 (5) PREVENTION AND MITIGATION.—

17 (A) MITIGATION OF LOSSES.—The State
18 program shall include provisions designed to en-
19 courage and support programs to mitigate
20 losses from natural catastrophes for which the
21 State insurance or reinsurance program was es-
22 tablished to provide insurance coverage.

23 (B) OPERATIONAL REQUIREMENTS.—The
24 State program shall operate in a State that—

1 (i) requires that an appropriate public
2 body within the State shall have adopted
3 adequate mitigation measures with effective
4 enforcement provisions which the Secretary
5 finds are consistent with the criteria
6 for construction described in the International
7 Code Council building codes;

8 (ii) has taken actions to establish an
9 insurance rate structure that takes into account
10 measures to mitigate insured losses;
11 and

12 (iii) ensures, to the extent that reinsurance
13 coverage made available under the eligible
14 State program results in any cost savings
15 in providing insurance coverage for risks
16 in such State, such cost savings are reflected
17 in premium rates charged to consumers
18 for such coverage.

19 (6) REQUIREMENTS REGARDING COVERAGE.—

20 The State program—

21 (A) may not, except for charges or assessments
22 related to post-event financing or bonding,
23 involve cross-subsidization between any
24 separate property and casualty insurance lines

1 covered under the State program pursuant to
2 paragraph (1);

3 (B) shall be subject to a requirement
4 under State law that for any insurance coverage
5 made available under the State insurance pro-
6 gram or for any reinsurance coverage for such
7 insurance coverage made available under the
8 State reinsurance program, the premium rates
9 charged shall cover the expected value of all fu-
10 ture costs associated with insurance policies or
11 reinsurance contracts written by such program,
12 in accordance with the principles under section
13 303(g);

14 (C) shall make available to all qualifying
15 policyholders insurance or reinsurance coverage,
16 as applicable, and mitigation services on a basis
17 that is not unfairly discriminatory; and

18 (D) publishes, and displays in a prominent
19 location on a Web site for the State insurance
20 program, information for the State insurance
21 program of estimated assessments and sur-
22 charges on policyholders, in accordance with
23 State laws, regulations, or other requirements,
24 for a range of natural disaster or catastrophic
25 events having a varying magnitude of losses, in-

1 including an event projected to result in losses of
2 such magnitude that they have a 1 percent
3 chance of being equaled or exceeded in any sin-
4 gle year, based on the current year estimated
5 aggregate funding capacity of the State insur-
6 ance program and State reinsurance program.

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—

14 (A) complies with such risk-based capital
15 requirements as applicable State law may im-
16 pose and shall take into consideration asset
17 risk, credit risk, underwriting risk, and such
18 other relevant risk as determined by the Sec-
19 retary; and

20 (B) for each calendar year, prepares and
21 submits to the Secretary a report identifying its
22 claim-paying capacity at such time after the
23 conclusion of such year, and containing such in-
24 formation and in such form, as the Secretary
25 shall require.

1 (9) OTHER REQUIREMENTS.—The State pro-
2 gram complies with such additional organizational,
3 underwriting, and financial requirements as the Sec-
4 retary shall, by regulation, provide to carry out the
5 purposes of this Act.

6 (b) CERTIFICATION.—The Secretary shall establish
7 procedures for initial certification and recertification as an
8 eligible State program.

9 (c) TRANSITIONAL MECHANISMS.—For the 5-year
10 period beginning on the date of the enactment of this Act,
11 in the case of a State that does not have an eligible State
12 program for the State, a State residual insurance market
13 entity, or State-sponsored provider of natural catastrophe
14 insurance, for such State shall be considered to be an eligi-
15 ble State program, but only if such State residual insur-
16 ance market entity, or State-sponsored provider of natural
17 catastrophe insurance, was in existence before such date
18 of enactment.

19 (d) REINSURANCE TO COVER EXPOSURE.—This sec-
20 tion may not be construed to limit or prevent any eligible
21 State program from obtaining reinsurance coverage for in-
22 sured losses retained by insurers pursuant to this section.

1 **SEC. 502. STUDY AND CONDITIONAL COVERAGE OF COM-**
2 **MERCIAL RESIDENTIAL LINES OF INSUR-**
3 **ANCE.**

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

18 **SEC. 503. STUDY OF RISK-BASED PRICING AND STATE PRO-**
19 **GRAM RATES.**

20 The Comptroller General of the United States shall
21 conduct a study to analyze—

22 (1) risk-based rate pricing, to determine the use
23 of actuarially sound pricing for State insurance, re-
24 insurance, or residual market programs, including
25 what measures States are taking to implement actu-
26 arially sound rates; and

1 (2) rates for State insurance, reinsurance, or
2 residual market programs that fail to cover the ex-
3 pected value of all future costs, including the cost of
4 capital, associated with insurance policies or reinsur-
5 ance contracts written by such programs or fail to
6 have sufficient assets above their indebtedness to
7 meet their obligations.

8 Not later than 6 months after the date of the enactment
9 of this Act, the Comptroller General shall submit a report
10 to the Congress on the results of the study under this sec-
11 tion.

12 **SEC. 504. DEFINITIONS.**

13 In this Act:

14 (1) COMMITMENT TO GUARANTEE.—The term
15 “commitment to guarantee” means a commitment to
16 make debt guarantees to an eligible State program
17 pursuant to section 202(d).

18 (2) ELIGIBLE STATE PROGRAM.—The term “eli-
19 gible State program” means a State program that
20 the Secretary certifies as an eligible State program
21 under section 501.

22 (3) INSURED LOSS.—The term “insured loss”
23 means any loss that is determined by an eligible
24 State program as being covered by insurance or re-

1 insurance made available under that eligible State
2 program.

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

9 (5) SECRETARY.—The term “Secretary” means
10 the Secretary of the Treasury.

11 (6) STATE.—The term “State” includes the
12 several States, the District of Columbia, the Com-
13 monwealth of Puerto Rico, Guam, the Common-
14 wealth of the Northern Mariana Islands, the United
15 States Virgin Islands, and American Samoa, and
16 any other territory or possession of the United
17 States.

18 **SEC. 505. REGULATIONS.**

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

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