

[COMMITTEE PRINT]

OCTOBER 8, 1999

[Text is a complete substitute for text of H.R. 21, as  
introduced in the House on January 6, 1999]

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeowners’ Insur-  
3 ance Availability Act of 1999”.

4 **SEC. 2. CONGRESSIONAL FINDINGS.**

5 The Congress finds that—

6 (1) the rising costs resulting from natural dis-  
7 asters have placed a strain on homeowners’ insur-  
8 ance markets in many areas, jeopardizing the ability  
9 of many consumers to adequately insure their homes  
10 and possessions;

11 (2) the lack of sufficient insurance capacity  
12 threatens to increase the number of uninsured home-  
13 owners, which, in turn, increases the risk of mort-  
14 gage defaults and the strain on the Nation’s banking  
15 system;

16 (3) some States have intervened to ensure the  
17 continued availability of homeowners’ insurance for  
18 all residents;

1           (4) it is appropriate that efforts to improve in-  
2           surance availability be designed and implemented at  
3           the State level;

4           (5) while State insurance programs may be ade-  
5           quate to cover losses from most natural disasters, a  
6           small percentage of events are likely to exceed the fi-  
7           nancial capacity of these programs and the local in-  
8           surance markets;

9           (6) limited Federal reinsurance will improve the  
10          effectiveness of State insurance programs and pri-  
11          vate insurance markets and will increase the likeli-  
12          hood that homeowners' insurance claims will be fully  
13          paid in the event of a large natural catastrophe;

14          (7) it is necessary to provide, on a temporary  
15          basis, a Federal reinsurance program that will pro-  
16          mote stability in the homeowners' insurance market  
17          in the short run and encourage the growth of rein-  
18          surance capacity by the private and capital markets  
19          as soon as practical;

20          (8) such Federal reinsurance program should  
21          not remain in existence longer than necessary for  
22          the private entities or the capital markets, or both,  
23          to provide adequate reinsurance capacity to address  
24          the current homeowners' insurance market disloca-  
25          tions caused by various disasters; and

1           (9) any Federal reinsurance program must be  
2           founded upon sound actuarial principles and priced  
3           in a manner that minimizes the potential impact on  
4           the Treasury.

5 **SEC. 3. PROGRAM AUTHORITY.**

6           (a) IN GENERAL.—The Secretary of the Treasury  
7           shall carry out a program under this Act to make reinsur-  
8           ance coverage available through—

9           (1) contracts for reinsurance coverage under  
10           section 6, which shall be made available for purchase  
11           only by eligible State programs; and

12           (2) contracts for reinsurance coverage under  
13           section 7, which shall be made available for purchase  
14           by purchasers under section 7(a)(1) only through  
15           auctions under section 7(a).

16           (b) PURPOSE.—The program shall be designed to  
17           make reinsurance coverage under this Act available to im-  
18           prove the availability of homeowners' insurance for the  
19           purpose of facilitating the pooling, and spreading the risk,  
20           of catastrophic financial losses from natural disasters and  
21           to improve the solvency of homeowners' insurance mar-  
22           kets.

23           (c) CONTRACT PRINCIPLES.—Under the program  
24           under this Act, the Secretary shall offer reinsurance cov-

1 erage through contracts with covered purchasers, which  
2 contracts—

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

6 (2) shall minimize the administrative costs of  
7 the Federal Government;

8 (3) shall, in the case of any contract under sec-  
9 tion 6 for eligible State programs, provide coverage  
10 based solely on insured losses within the State of the  
11 eligible State program purchasing the contract; and

12 (4) shall, in the case of any contract under sec-  
13 tion 7 for purchase at auction, provide coverage  
14 based solely on insured losses within the region es-  
15 tablished pursuant to section 7(a) for which the auc-  
16 tion is held.

17 **SEC. 4. QUALIFIED LINES OF COVERAGE.**

18 Each contract for reinsurance coverage made avail-  
19 able under this Act shall provide insurance coverage  
20 against residential property losses to homes (including  
21 dwellings owned under condominium and cooperative own-  
22 ership arrangements) and the contents of apartment  
23 buildings.

1 **SEC. 5. COVERED PERILS.**

2 Each contract for reinsurance coverage made avail-  
3 able under this Act shall cover losses that are—

4 (1) proximately caused by—

5 (A) earthquakes;

6 (B) perils ensuing from earthquakes, in-  
7 cluding fire and tsunami;

8 (C) tropical cyclones having maximum sus-  
9 tained winds of at least 74 miles per hour, in-  
10 cluding hurricanes and typhoons; or

11 (D) volcanic eruptions; and

12 (2) in the case only of a contract under section  
13 6, insured by the eligible State program purchasing  
14 the contract.

15 The Secretary shall, by regulation, define the natural dis-  
16 aster perils under paragraph (1).

17 **SEC. 6. CONTRACTS FOR REINSURANCE COVERAGE FOR**  
18 **ELIGIBLE STATE PROGRAMS.**

19 (a) **ELIGIBLE STATE PROGRAMS.**—A program shall  
20 be eligible to purchase a contract under this section for  
21 reinsurance coverage under this Act only if the State en-  
22 tity authorized to make such determinations certifies to  
23 the Secretary that the program is a State-operated pro-  
24 gram that complies with the following requirements:

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

1           (A) insurance program that offers coverage  
2           for homes (which may include dwellings owned  
3           under condominium and cooperative ownership  
4           arrangements) and the contents of apartments  
5           to State residents because of a finding by the  
6           State insurance commissioner or other State  
7           entity authorized to make such determination  
8           that such a program is necessary in order to  
9           provide for the continued availability of such  
10          residential coverage for all residents and that  
11          such State program is authorized by State law;  
12          or

13          (B) reinsurance program that is designed  
14          to improve private insurance markets which  
15          offer coverage for homes (which may include  
16          dwellings owned under condominium and coop-  
17          erative ownership arrangements) and the con-  
18          tents of apartments because of a finding by the  
19          State insurance commissioner or other State  
20          entity authorized to make such determination  
21          that such a program is necessary in order to  
22          provide for the continued availability of such  
23          residential coverage for all residents.

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

4           (3) COVERAGE.—The program shall cover only  
5           a single peril.

6           (4) EARNINGS.—The program may not provide  
7           for the redistribution of any part of any net profits  
8           of the program to any insurer that participates in  
9           the program.

10          (5) MITIGATION.—

11           (A) IN GENERAL.—The program shall in-  
12           clude mitigation provisions that require that not  
13           less than 10 percent of the net investment in-  
14           come of the State insurance or reinsurance pro-  
15           gram be used for programs to mitigate losses  
16           from natural disasters for which the State in-  
17           surance or reinsurance program was estab-  
18           lished. For purposes of this paragraph, mitiga-  
19           tion shall include methods to reduce losses of  
20           life and property.

21           (B) EXCEPTION.—Notwithstanding sub-  
22           paragraph (A), in the case of any State for  
23           which the Secretary has determined, pursuant  
24           to a request by the State insurance commis-  
25           sioner, that the 10 percent requirement under

1           subparagraph (A) will jeopardize the actuarial  
2           soundness of the State program, subparagraph  
3           (A) shall be applied by substituting “5 percent”  
4           for “10 percent”.

5           (6) REQUIREMENTS REGARDING COVERAGE.—

6           (A) IN GENERAL.—The program—

7                   (i) may not involve cross-subsidization  
8                   between any separate property and cas-  
9                   ualty lines covered under the program un-  
10                  less the elimination of such activity in an  
11                  existing program would negatively impact  
12                  the eligibility of the program to purchase a  
13                  contract for reinsurance coverage under  
14                  this Act pursuant to paragraph (2);

15                   (ii) shall include provisions that au-  
16                   thorize the State insurance commissioner  
17                   or other State entity authorized to make  
18                   such a determination to terminate the pro-  
19                   gram if the insurance commissioner or  
20                   other such entity determines that the pro-  
21                   gram is no longer necessary to ensure the  
22                   availability of homeowners’ insurance for  
23                   all State residents; and

24                   (iii) shall provide that, for any insur-  
25                   ance coverage for homes (which may in-



1           clude dwellings owned under condominium  
2           and cooperative ownership arrangements)  
3           and the contents of apartments that is  
4           made available under the State insurance  
5           program and for any reinsurance coverage  
6           for such insurance coverage made available  
7           under the State reinsurance program, the  
8           premium rates charged shall be amounts  
9           that, at a minimum, are sufficient to cover  
10          the full actuarial costs of such coverage,  
11          based on consideration of the risks involved  
12          and accepted actuarial and rate making  
13          principles, anticipated administrative ex-  
14          penses, and loss and loss-adjustment ex-  
15          penses.

16           (B) APPLICABILITY.—This paragraph shall  
17          apply to any program which, after January 1,  
18          1999, commences offering insurance or reinsur-  
19          ance coverage described in subparagraph (A) or  
20          (B), respectively, of paragraph (1), or effective  
21          2 years after the date of enactment for any ex-  
22          isting State program described in section 8.

23          (7) OTHER QUALIFICATIONS.—

24           (A) IN GENERAL.—The State program  
25          shall (for the year for which the coverage is in

1 effect) comply with regulations that shall be  
2 issued under this paragraph by the Secretary,  
3 in consultation with the National Commission  
4 on Catastrophe Risks and Insurance Loss Costs  
5 established under section 10. The regulations  
6 shall establish criteria for State programs to  
7 qualify to purchase reinsurance under this sec-  
8 tion, which are in addition to the requirements  
9 under the other paragraphs of this subsection.

10 (B) CONTENTS.—The regulations issued  
11 under this paragraph shall include requirements  
12 that—

13 (i) the State program have public  
14 members on its board of directors or have  
15 an advisory board with public members;

16 (ii) insurance coverage made available  
17 through the State program not supplant  
18 coverage that is otherwise reasonably avail-  
19 able and affordable in the private insur-  
20 ance market;

21 (iii) the State program provide ade-  
22 quate insurance protection for the peril  
23 covered, which shall include a range of  
24 deductibles and premium costs that reflect  
25 the applicable risk to eligible properties;

1 (iv) the insurance protection provided  
2 by the State program is made available on  
3 a nondiscriminatory basis to all qualifying  
4 residents;

5 (v) new construction insured by the  
6 program complies with applicable State or  
7 local government building, fire, and safety  
8 codes;

9 (vi) the State, or appropriate local  
10 governments within the State, have in ef-  
11 fect building, fire, and safety codes gen-  
12 erally consistent with Federal Emergency  
13 Management Agency guidelines designed to  
14 reduce losses from the peril covered;

15 (vii) the State has taken actions to es-  
16 tablish an insurance rate structure that  
17 takes into account measures to mitigate in-  
18 surance losses;

19 (viii) there are in effect, in such State,  
20 laws or regulations sufficient to prohibit  
21 price gouging, during the term of such re-  
22 insurance coverage, in any disaster area lo-  
23 cated within the State; and

24 (ix) the State program complies with  
25 such other requirements that the Secretary

1                   considers necessary to carry out the pur-  
2                   poses of this Act.

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

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

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

12           (3) RETAINED LOSSES REQUIREMENT.—The  
13 contract shall make a payment only if the total  
14 amount of insurance claims for losses, which are  
15 covered by qualified lines, occur to properties located  
16 within the State covered by the contract, and result  
17 from a single event of a covered peril, exceeds the  
18 amount of retained losses provided under the con-  
19 tract (pursuant to section 8(a)) purchased by the eli-  
20 gible State program.

21           (4) MULTIPLE EVENTS.—The contract shall  
22 cover any eligible losses from one or more covered  
23 events that may occur during the term of the con-  
24 tract.

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  
7 made.

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 return to the Federal Govern-  
21 ment fair compensation for the risks and  
22 costs being borne by the people of the  
23 United States and that takes into consider-  
24 ation the developmental stage of empirical  
25 models of natural disasters and the capac-

1           ity of private markets to absorb insured  
2           losses from natural 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 which shall be sufficient  
7           to pay the annualized cost of all claims,  
8           loss adjustment expenses, and all adminis-  
9           trative costs of reinsurance coverage of-  
10          fered 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).

21                           (iii) ADMINISTRATIVE COSTS.—A sum  
22           sufficient to provide for the operation of  
23           the Commission and the administrative ex-  
24           penses incurred by the Secretary in carry-  
25           ing out this Act.

1           (7) INFORMATION.—The contract shall contain  
2           a condition providing that the Commission may re-  
3           quire the State program that is covered to submit to  
4           the Commission all information on the State pro-  
5           gram relevant to the duties of the Commission, as  
6           determined by the Secretary.

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

20          (9) OTHERS.—The contract shall contain such  
21          other terms as the Secretary considers necessary to  
22          carry out this Act and to ensure the long-term fi-  
23          nancial integrity of the program under this Act.

1 **SEC. 7. AUCTION OF CONTRACTS FOR REINSURANCE COV-**  
2 **ERAGE.**

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

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

13 (2) **REGIONAL AUCTIONS.**—The auction pro-  
14 gram shall provide for auctions on a regional basis.  
15 The Secretary shall divide the States into not less  
16 than 6 regions for the purpose of holding such re-  
17 gional auctions, which shall include separate regions  
18 for all or part of the State of California and all or  
19 part of the State of Florida. Auctions for each re-  
20 gion shall be conducted not less often than annually.

21 (3) **RESERVE PRICE.**—In auctioning contracts  
22 under this section for reinsurance coverage, the Sec-  
23 retary shall set, for each contract, a reserve price  
24 that is the minimum price at which the contract may  
25 be sold, based upon the recommendations of the



1 Commission. The reserve price shall be determined  
2 on the basis of the following components:

3 (A) RISK-BASED PRICE.—A risk-based  
4 price, which shall reflect the anticipated  
5 annualized payout of the contract according to  
6 the actuarial analysis and recommendations of  
7 the Commission.

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

11 (C) ADMINISTRATIVE COSTS.—A sum suf-  
12 ficient to provide for the operation of the Com-  
13 mission and the administrative expenses in-  
14 curred by the Secretary in carrying out this sec-  
15 tion.

16 (D) MITIGATION.—An adjustment based  
17 on an actuarial analysis that takes into account  
18 any efforts that are being made to reduce losses  
19 to property in the region in which the contract  
20 is being sold.

21 (4) PRICE GOUGING PROTECTIONS.—The auc-  
22 tion program may provide reinsurance coverage for  
23 losses incurred for property located only in a State  
24 for which the State entity authorized to make such  
25 determinations has certified to the Secretary that

1       there are in effect, in such State, laws or regulations  
2       sufficient to prohibit price gouging, during the term  
3       of such reinsurance coverage, in any disaster area  
4       located within the State.

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

9           (b) CONTRACT TERMS AND CONDITIONS.—Each con-  
10      tract for reinsurance coverage auctioned under the pro-  
11      gram under this section shall include the following terms  
12      and conditions:

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

16           (2) TRANSFERABILITY.—The contract shall at  
17      all times be fully transferable, assignable, and divis-  
18      ible.

19           (3) MULTIPLE EVENTS.—The contract shall  
20      contain the provisions described in section 6(b)(4).

21           (4) THRESHOLD OF COVERAGE.—Each contract  
22      auctioned in a region established under subsection  
23      (a)(2) shall provide that the covered purchaser may  
24      receive a payment for losses covered under the con-  
25      tract if, under a process specified in the contract,

1 the Secretary determines that the insurance industry  
2 will, as a result of a single event of a covered peril,  
3 incur losses within the coverage area for such region  
4 that are covered by one or more lines of insurance  
5 under section 5 in an aggregate amount, for such  
6 event, greater than the level of retained losses speci-  
7 fied in section 8.

8 (5) EXHAUSTION OF COVERAGE.—Each con-  
9 tract shall contain the provisions described in section  
10 6(b)(8).

11 (6) OTHERS.—The contract shall contain such  
12 other terms as the Secretary considers necessary to  
13 carry out this Act and to ensure the long-term fi-  
14 nancial integrity of the program under this Act.

15 **SEC. 8. MINIMUM LEVEL OF RETAINED LOSSES AND MAXI-**  
16 **MUM FEDERAL LIABILITY.**

17 (a) AVAILABLE LEVELS OF RETAINED LOSSES.—In  
18 making reinsurance coverage available under this Act, the  
19 Secretary shall make available for purchase contracts for  
20 such coverage that require the sustainment of retained  
21 losses from a single event of a covered peril (as required  
22 under sections 6(b)(3) and 7(b)(4) for payment of eligible  
23 losses) in various amounts, as the Secretary, in consulta-  
24 tion with the Commission, determines appropriate and  
25 subject to the requirements under subsection (b).

1 (b) MINIMUM LEVEL OF RETAINED LOSSES.—

2 (1) CONTRACTS FOR STATE PROGRAMS.—Sub-  
3 ject to paragraph (3) and notwithstanding any other  
4 provision of this Act, a contract for reinsurance cov-  
5 erage under section 6 for an eligible State program  
6 that offers insurance or reinsurance coverage de-  
7 scribed in subparagraph (A) or (B), respectively, of  
8 section 6(a)(1) may not be made available or sold  
9 unless the contract requires retained losses from a  
10 single event of a covered peril in the following  
11 amount:

12 (A) IN GENERAL.—The State program  
13 shall sustain an amount of retained losses of  
14 not less than the greater of—

15 (i) \$2,000,000,000;

16 (ii) the claims-paying capacity of the  
17 eligible State program, as determined by  
18 the Secretary; and

19 (iii) an amount, determined by the  
20 Secretary in consultation with the Commis-  
21 sion, equal to the eligible loss projected to  
22 be incurred every 100 years from a single  
23 event in the State.

24 (B) TRANSITION RULE FOR EXISTING  
25 STATE PROGRAMS.—

1 (i) CLAIMS-PAYING CAPACITY.—Sub-  
2 ject to clause (ii), in the case of any eligi-  
3 ble State program that was offering insur-  
4 ance or reinsurance coverage on the date  
5 of the enactment of this Act and the  
6 claims-paying capacity of which is greater  
7 than \$2,000,000,000 but less than an  
8 amount determined for the State under  
9 subparagraph (A)(iii), the minimum level  
10 of retained losses applicable under this  
11 paragraph shall be the claims-paying ca-  
12 pacity of such State program.

13 (ii) AGREEMENT.—Clause (i) shall  
14 apply to a State program only if the State  
15 program enters into a written agreement  
16 with the Secretary that shall provide a  
17 schedule for increasing the claims-paying  
18 capacity of the State program to the  
19 amount determined sufficient by the Sec-  
20 retary under subparagraph (A)(iii) of this  
21 subsection over a period not to exceed 5  
22 years. The Secretary may extend the 5-  
23 year period for not more than 2 additional  
24 one-year periods if the Secretary deter-  
25 mines that losses incurred by the State

1 program as a result of covered perils create  
2 excessive hardship on the State program.  
3 The Secretary shall consult with the appro-  
4 priate officials of the State program re-  
5 garding the required schedule and any po-  
6 tential one-year extensions.

7 (C) TRANSITION RULE FOR NEW STATE  
8 PROGRAMS.—

9 (i) 100-YEAR EVENT.—The Secretary  
10 may provide that, in the case of an eligible  
11 State program that, after January 1,  
12 1999, commences offering insurance or re-  
13 insurance coverage, during the 5-year pe-  
14 riod beginning on the date that reinsur-  
15 ance coverage under section 6 is first made  
16 available, the minimum level of retained  
17 losses applicable under this paragraph  
18 shall be the amount determined for the  
19 State under subparagraph (A)(iii), except  
20 that such minimum level shall be adjusted  
21 annually as provided in clause (ii) of this  
22 subparagraph.

23 (ii) ANNUAL ADJUSTMENT.—Each an-  
24 nual adjustment under this clause shall in-  
25 crease the minimum level of retained losses

1 applicable under this subparagraph to an  
2 eligible State program described in clause  
3 (i) in a manner such that—

4 (I) during the course of such 5-  
5 year period, the applicable minimum  
6 level of retained losses approaches the  
7 minimum level that, under subpara-  
8 graph (A), will apply to the eligible  
9 State program upon the expiration of  
10 such period; and

11 (II) each such annual increase is  
12 a substantially similar amount, to the  
13 extent practicable.

14 (D) REDUCTION BECAUSE OF REDUCED  
15 CLAIMS-PAYING CAPACITY.—

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

1 current capacity of the State program, as  
2 determined by the Secretary, but in no  
3 case may such minimum level be less than  
4 \$2,000,000,000.

5 (ii) TERM OF REDUCTION.—If the  
6 minimum level of retained losses for an eli-  
7 gible State program is reduced pursuant to  
8 clause (i), upon the expiration of the 5-  
9 year period beginning upon such reduction  
10 the minimum level of retained losses appli-  
11 cable to such State program under a con-  
12 tract for reinsurance coverage under sec-  
13 tion 6 shall be increased to an amount not  
14 less than the amount applicable to such  
15 State program immediately before such re-  
16 duction.

17 (E) CLAIMS-PAYING CAPACITY.—For pur-  
18 poses of this paragraph, the claims-paying ca-  
19 pacity of a State-operated insurance or reinsur-  
20 ance program under section 6(a)(1) shall be de-  
21 termined by the Secretary, in consultation with  
22 the Commission, taking into consideration the  
23 claims-paying capacity as determined the State  
24 program, retained losses to private insurers in  
25 the State in an amount assigned by the State



1 insurance commissioner, the cash surplus of the  
2 program, and the lines of credit, reinsurance,  
3 and other financing mechanisms of the program  
4 established by law.

5 (2) AUCTION CONTRACTS.—Subject to para-  
6 graph (3) and notwithstanding any other provision  
7 of this Act, a contract for reinsurance coverage may  
8 not be made available or sold under section 7  
9 through a regional auction unless the contract re-  
10 quires that the insurance industry in the region for  
11 which the auction was conducted sustains a cumu-  
12 lative amount of retained losses (in covered lines re-  
13 sulting from covered perils) of not less than the  
14 greater of—

15 (A) \$2,000,000,000; and

16 (B) an amount, determined by the Sec-  
17 retary in consultation with the Commission,  
18 equal to the eligible loss projected to be in-  
19 curred once every 100 years from a single event  
20 in the region.

21 (3) ANNUAL ADJUSTMENT.—The Secretary  
22 may annually raise the minimum level of retained  
23 losses established under paragraph (1) for an eligible  
24 State program or under paragraph (2) for a region  
25 to reflect, as determined by the Secretary—

1 (A) in the case of an eligible State pro-  
2 gram, changes to the claims-paying capacity of  
3 the program;

4 (B) changes in the capacity of the private  
5 insurance and reinsurance market;

6 (C) increases in the market value of prop-  
7 erties; or

8 (D) such other situations as the Secretary  
9 considers appropriate.

10 In making any determination under this paragraph  
11 in the minimum level of retained losses, the Sec-  
12 retary shall establish such level at an amount such  
13 that the program under this Act for making reinsur-  
14 ance coverage available does not displace or compete  
15 with the private insurance or reinsurance markets or  
16 capital markets, as determined by the Secretary.

17 (4) OPTIONAL ANNUAL INFLATIONARY ADJUST-  
18 MENT.—The Secretary may, on an annual basis,  
19 raise the minimum level of retained losses estab-  
20 lished under paragraph (1) for each eligible State  
21 program and under paragraph (2) for each region to  
22 reflect the annual rate of inflation. Any such raise  
23 shall be made in accordance with an inflation index  
24 that the Secretary determines to be appropriate. The  
25 first such raise may be made one year after con-

1 tracts for reinsurance coverage under this Act are  
2 first made available for purchase.

3 (c) MAXIMUM FEDERAL LIABILITY.—

4 (1) IN GENERAL.—Notwithstanding any other  
5 provision of law, the Secretary may sell only con-  
6 tracts for reinsurance coverage under this Act in  
7 various amounts which comply with the following re-  
8 quirements:

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

14 (B) ELIGIBLE LOSS COVERAGE SOLD.—El-  
15 igible losses covered by all contracts sold within  
16 a State or region during a 12-month period do  
17 not exceed the difference between the following  
18 amounts (each of which shall be determined by  
19 the Secretary in consultation with the Commis-  
20 sion):

21 (i) The amount equal to the eligible  
22 loss projected to be incurred once every  
23 500 years from a single event in the State  
24 or region.

1                   (ii) The amount equal to the eligible  
2                   loss projected to be incurred once every  
3                   100 years from a single event in the State  
4                   or region.

5                   (2) ANNUAL ADJUSTMENTS.—The Secretary  
6                   shall annually adjust the amount under paragraph  
7                   (1)(A) (as it may have been previously adjusted) to  
8                   provide for inflation in accordance with an inflation  
9                   index that the Secretary determines to be appro-  
10                  prium.

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

13                  (1) IN GENERAL.—The Secretary may not  
14                  make available for purchase contracts for reinsur-  
15                  ance coverage under this Act that represent more  
16                  than 50 percent of the risk of insured losses in ex-  
17                  cess of retained losses—

18                         (A) in the case of a contract under section  
19                         6 for an eligible State program, for such State;  
20                         and

21                         (B) in the case of a contract made avail-  
22                         able through a regional auction under section 7,  
23                         for such region.

24                         (2) PAYOUT.—For purposes of this subsection,  
25                         the amount of payout from a reinsurance contract

1 shall be the amount of eligible losses in excess of re-  
2 tained losses multiplied by the percentage in effect  
3 at the time under paragraph (1).

4 **SEC. 9. DISASTER REINSURANCE FUND.**

5 (a) ESTABLISHMENT.—There is established within  
6 the Treasury of the United States a fund to be known  
7 as the Disaster Reinsurance Fund (in this section referred  
8 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 Act;

12 (2) any amounts borrowed under subsection  
13 (d);

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

16 (4) such other amounts as may be credited to  
17 the Fund.

18 (c) USES.—Amounts in the Fund may be used only  
19 for the following purposes:

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

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

1           (3) ADMINISTRATIVE EXPENSES.—To pay for  
2 the administrative expenses incurred by the Sec-  
3 retary in carrying out the reinsurance program  
4 under this Act.

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

7 (d) BORROWING.—

8           (1) AUTHORITY.—To the extent that the  
9 amounts in the Fund are insufficient to pay claims  
10 and expenses under subsection (c), the Secretary  
11 may issue such obligations of the Fund as may be  
12 necessary to cover the insufficiency and shall pur-  
13 chase any such obligations issued.

14           (2) PUBLIC DEBT TRANSACTION.—For the pur-  
15 pose of purchasing any such obligations, the Sec-  
16 retary may use as a public debt transaction the pro-  
17 ceeds from the sale of any securities issued under  
18 chapter 31 of title 31, United States Code, and the  
19 purposes for which securities are issued under such  
20 chapter are hereby extended to include any purchase  
21 by the Secretary of such obligations under this sub-  
22 section.

23           (3) CHARACTERISTICS OF OBLIGATIONS.—Obli-  
24 gations issued under this subsection shall be in such  
25 forms and denominations, bear such maturities, bear

1 interest at such rate, and be subject to such other  
2 terms and conditions, as the Secretary shall deter-  
3 mine.

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

8 (5) REPAYMENT.—Any obligations issued under  
9 this subsection shall be repaid, including interest,  
10 from the Fund and shall be recouped from pre-  
11 miums charged for reinsurance coverage provided  
12 under this Act.

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

18 (f) PROHIBITION OF FEDERAL FUNDS.—Except for  
19 amounts made available pursuant to subsection (d) and  
20 section 10(h), no Federal funds shall be authorized or ap-  
21 propriated for the Fund or for carrying out the reinsur-  
22 ance program under this Act.

1 **SEC. 10. NATIONAL COMMISSION ON CATASTROPHE RISKS**  
2 **AND INSURANCE LOSS COSTS.**

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

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

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

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

24 (e) EXPERTS AND CONSULTANTS.— The Commission  
25 may procure temporary and intermittent services under  
26 section 3109(b) of title 5, United States Code, but at a



1 rate not in excess of the daily equivalent of the annual  
2 rate of basic pay payable for level V of the Executive  
3 Schedule, for each day during which the individual pro-  
4 cured is performing such services for the Commission.

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

15 (g) OBTAINING DATA.—The Commission and the  
16 Secretary may solicit loss exposure data and such other  
17 information either deems necessary to carry out its re-  
18 sponsibilities from governmental agencies and bodies and  
19 organizations that act as statistical agents for the insur-  
20 ance industry. The Commission and the Secretary shall  
21 take such actions as are necessary to ensure that informa-  
22 tion that either deems is confidential or proprietary is dis-  
23 closed only to authorized individuals working for the Com-  
24 mission or the Secretary. No company which refuses to  
25 provide information requested by the Commission or the

1 Secretary may participate in the program for reinsurance  
2 coverage authorized under this Act, nor may any State  
3 participate if any governmental agency within that State  
4 has refused to provide information requested by the Com-  
5 mission or the Secretary.

6 (h) FUNDING.—

7 (1) AUTHORIZATION OF APPROPRIATIONS.—

8 There are authorized to be appropriated—

9 (A) \$1,000,000 for fiscal year 2000 for the  
10 initial expenses in establishing the Commission  
11 and the initial activities of the Commission that  
12 cannot timely be covered by amounts obtained  
13 pursuant to sections 6(b)(6)(B)(iii) and  
14 7(a)(4)(C), as determined by the Secretary;

15 (B) such additional sums as may be nec-  
16 essary to carry out subsequent activities of the  
17 Commission;

18 (C) \$1,000,000 for fiscal year 2000 for the  
19 initial expenses of the Secretary in carrying out  
20 the program authorized under section 3; and

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

24 (2) OFFSET.—The Secretary shall provide, to  
25 the maximum extent practicable, that an amount

1 equal to any amount appropriated under paragraph  
2 (1) is obtained from purchasers of reinsurance cov-  
3 erage under this Act and deposited in the Fund es-  
4 tablished under section 9. Such amounts shall be ob-  
5 tained by inclusion of a provision for the Commis-  
6 sion's expenses incorporated into the pricing of the  
7 contracts for such reinsurance coverage, pursuant to  
8 sections 6(b)(6)(B)(iii) and 7(a)(4)(C).

9 (i) TERMINATION.—The Commission shall terminate  
10 upon the effective date of the repeal under section 12(c).

11 **SEC. 11. DEFINITIONS.**

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

14 (1) COMMISSION.—The term “Commission”  
15 means the National Commission on Catastrophe  
16 Risks and Insurance Loss Costs established under  
17 section 10.

18 (2) COVERED PERILS.—The term “covered per-  
19 ils” means the natural disaster perils under section  
20 5.

21 (3) COVERED PURCHASER.—The term “covered  
22 purchaser” means—

23 (A) with respect to reinsurance coverage  
24 made available under a contract under section  
25 6, the eligible State-operated insurance or rein-

1           surance program that purchases such coverage;  
2           and

3                   (B) with respect to reinsurance coverage  
4           made available under a contract under section  
5           7, the purchaser of the contract auctioned  
6           under such section or any subsequent holder or  
7           holders of the contract.

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

10                   (A) a covered peril specified in section 5  
11           has occurred; and

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

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

17                           (ii) is in effect.

18           (5) ELIGIBLE LOSSES.—The term “eligible  
19           losses” shall be defined by the Secretary, after con-  
20           sultation with the Commission.

21           (6) ELIGIBLE STATE PROGRAM.—The term “eli-  
22           gible State program” means a State program that,  
23           pursuant to section 6(a), is eligible to purchase rein-  
24           surance coverage made available through contracts  
25           under section 6.

1           (7) PRICE GOUGING.—The term “price  
2           gouging” means the providing of any consumer good  
3           or service by a supplier for a price that the supplier  
4           knows or has reason to know is greater, by at least  
5           the percentage set forth in a State law or regulation  
6           prohibiting such act (notwithstanding any real cost  
7           increase due to any attendant business risk and  
8           other reasonable expenses that result from the major  
9           disaster involved), than the price charged by the  
10          supplier for such consumer good or service imme-  
11          diately before the disaster.

12          (8) QUALIFIED LINES.—The term “qualified  
13          lines” means lines of insurance coverage for which  
14          losses are covered under section 4 by reinsurance  
15          coverage under this Act.

16          (9) REINSURANCE COVERAGE.—The term “re-  
17          insurance coverage under this Act” includes cov-  
18          erage under contracts made available under sections  
19          6 and 7.

20          (10) SECRETARY.—The term “Secretary”  
21          means the Secretary of the Treasury.

22          (11) STATE.—The term “State” means the  
23          States of the United States, the District of Colum-  
24          bia, the Commonwealth of Puerto Rico, the Com-  
25          monwealth of the Northern Mariana Islands, Guam,

1 the Virgin Islands, American Samoa, and any other  
2 territory or possession of the United States.

3 **SEC. 12. TERMINATION.**

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

9 (b) EXTENSION.—If upon the expiration of the period  
10 under subsection (a) the Secretary, in consultation with  
11 the Commission, determines that continuation of the pro-  
12 gram for reinsurance coverage under this Act is necessary  
13 to carry out the purpose of this Act under section 3(b)  
14 because of insufficient growth of capacity in the private  
15 homeowners' insurance market, the Secretary shall con-  
16 tinue to provide reinsurance coverage under this Act until  
17 the expiration of the 5-year period beginning upon the ex-  
18 piration of the period under subsection (a).

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

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

1 maining in the Fund under section 9 upon the repeal of  
2 this title.

3 **SEC. 13. ANNUAL STUDY OF COST AND AVAILABILITY OF**  
4 **DISASTER INSURANCE AND PROGRAM NEED.**

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

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

12 (1) for each State or region, the capacity of the  
13 private homeowners' insurance market with respect  
14 to coverage for losses from catastrophic natural dis-  
15 asters;

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

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

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

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

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

6       (d) COMMENCEMENT OF REPORTING REQUIRE-  
7 MENT.—The Secretary shall first submit an annual report  
8 under this section 2 years after the date of the enactment  
9 of this Act.